

STATES OF JERSEY

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DRAFT PUBLIC ELECTIONS (AMENDMENT No. 3) (JERSEY) LAW 200-

Lodged au Greffe on 6th May 2008
by the Privileges and Procedures Committee

STATES GREFFE



Jersey

DRAFT PUBLIC ELECTIONS (AMENDMENT No. 3) (JERSEY) LAW 200-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Chairman of the Privileges and Procedures Committee has made the following statement –

In the view of the Chairman of the Privileges and Procedures Committee the provisions of the Draft Public Elections (Amendment No. 3) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Connétable D.F. Gray of St. Clement**

REPORT

Introduction

The Privileges and Procedures Committee has been considering amendments to the Public Elections (Jersey) Law 2002 for some time and in late 2007 set up a Working Party chaired by the Vice Chairman, the Deputy of St. Mary. This Working Party included representatives of the parishes and discussed a number of amendments with all relevant stakeholders including the Connétables, the Judicial Greffe and the Jurats. These amendments are the result of the Working Party's deliberations and, as can be seen, they are a mixture of some relatively minor practical improvements to the operation of the Law as well as some more important and fundamental policy changes.

Article 2

This Article substitutes Articles 6 to 10 of the 2002 Law.

The **new Article 6** refers to the Electoral Register. At present the Law provides that the Register is started again from scratch every three years. Experience has shown that the current provisions lead to a gradual increase in the number of registered electors over a three year period with a sudden fall off in the first year of the new three year cycle. This is most probably because people who are entitled to be registered simply omit to make an application for their name to be included on the Register. The variation in the number of registered electors is, in fact, quite extraordinary. The number of registered voters in each Senatorial election since 1999 has been as follows:

Year	Voters Registered
1999 General	51,414
2002 General	33,655
2003 By election	47,954
2004 By election	48,630
2005 General	54,417

In the Parish of St. Helier the number of registered electors fell from 15,907 in the Deputies elections of 2005 to 13,688 in the election for Connétable in January 2008.

PPC does not believe it is acceptable for a system to be in place that allows such drastic variations and which inevitably means that many people entitled to be on the register are not included. This new Article 6 therefore creates, for the first time, a true rolling Electoral Register. Once these amendments to the Law are in force the Register will never again be wiped clean and will simply be updated over time.

The Article also makes one minor change for practical reasons which is that the current requirement for the Connétable to produce the Electoral Register by Vingtaines is replaced by a requirement to produce it by Electoral District. There is no longer any requirement or relevance of register drawn up by a Vingtaine and this simply creates an unnecessary bureaucratic burden for the Parishes.

New Article 7 explains how the Connétables will collect information for the rolling Electoral Register. Once a year the Connétables will send out a form to every unit of dwelling accommodation setting out the names of persons already registered to that address. As at present it will then be the duty of each person ordinarily resident who is entitled to be registered to check the form, amend it as necessary, and return it to the Connétable.

New Article 8 sets out how the rolling register will be maintained over time. Paragraphs (1) and (2) mirror the current Law but paragraphs (3) to (5) give new provisions. The rolling register will be able to be weeded if the Connétable knows that a person is deceased or no longer resident in the electoral district. PPC has been informed that there is now good liaison between the Superintendent Registrar and the parishes to forward information on persons who are deceased.

Paragraphs (4) and (5) of the new Article 8 set out that if no reply to an annual notice is received for three years

the Connétable will contact the person concerned and explain that his or her name will be removed from the register unless a reply is received. This will be another mechanism for the Connétables to remove names from the register if persons are no longer resident in the electoral district concerned. PPC accepts that the new rolling register may have the consequence that persons are included on it when they are no longer resident in the relevant electoral district but, on balance, the Committee is convinced that this is a preferable situation to the current one where many people who should be on the register are clearly not included because of the current three year cycle.

New Article 9 contains an entirely new provision which is being brought forward in response to concerns expressed to PPC about people who have valid reasons, because of threat of personal harm, for not wishing to appear on the electoral register. There is evidence that a small number of people have opted not to register and thereby lost their right to vote because of this concern. This new Article allows any person who is fearful of suffering personal harm if their address was known publicly to apply to the Connétable to be registered to vote but not included on the public register. Once the application has been accepted by the Connétables the person's name would not be circulated with any of the publicly available registers. This does mean, of course, that the person would not even be on the list given to the candidates and might not receive election material but PPC does not believe that the provision would work if a person knew that his or her name and address would be made available to a potentially wide audience. Because the person's name will only be given to the Judicial Greffier it will be necessary for any person who is registered in these circumstances to vote by postal vote or pre-poll vote and it will not be possible for the person to attend the polling station to vote as the register available on that day would exclude the name of the person concerned.

New Article 10 repeats the majority of the current provisions on appeals but updates these to reflect the new provisions in the substituted Articles.

Article 3

Article 3 amends Article 11 of the Principal Law as a consequence of the move to a rolling register.

Article 4

Article 4 makes two changes to Article 12 of the 2002 Law.

The first change is brought forward as a consequence of the decision of the States to hold the Senatorial and the Connétables elections on the same day. The Comité des Connétables has discussed the arrangements for the nomination meetings for these two elections and has concluded that it would not be practical to hold them on the same day. The nomination meetings for Connétables clearly need to be held in each parish whereas the Senatorial meeting is held in St. Helier and it would simply be impractical to attempt to hold both meetings on the same day. The Comité's intention is therefore that the nomination meetings will be held on two consecutive days. Under the current legislation the electoral register in force for an election is related to day of the nomination meeting and without any amendment there would, in law, be two different electoral registers for the elections of Senators and Connétables. This Article amends the current provision and provides that where nomination meetings are held on two consecutive days for elections that are to be held on the same day the register in force for both elections is the one at noon on the day before the first nomination meeting. This will avoid any practical issues about having two separate electoral registers in force for elections that are to be held on the same day.

The second part of Article 4 amends Article 12 of the principal Law as a consequence of the new provisions referred to above on the exclusion of names from the register. They provide that the Connétables must provide registers as at present to the Judicial Greffier, the *Autorisé* and the *Adjoints* together with the candidates, but the Connétables must only provide a list of the omitted names to the Judicial Greffier.

Article 5

Article 5 is brought in response to concerns from the Jurats and the Royal Court that there is currently no provision for the replacement of an *Autorisé* after his or her appointment. This Article allows the Royal Court to appoint another person in the place of the *Autorisé* and, if there is not time for the Court to convene within the period of 10 days before the poll, the Bailiff can make the substitution alone.

Article 6

Article 6 makes no practical change to the Law but clarifies a potential ambiguity. In practice the Senatorial nomination meeting is always held in St. Helier but chaired by a Connétable chosen by the Comité des Connétables, normally the Chairman. This Article clarifies the legislation which, as currently drafted, could imply that the Connétable of St. Helier chairs the meeting held in his or her parish hall.

Article 7

At present any nomination meeting for a public election cannot be closed until at least 20 minutes after it has been opened. In practice, particularly if there is only one nomination, the business of a meeting can be concluded well before this time and those present must wait doing nothing until the 20 minute period has elapsed. This Article will reduce the period from 20 minutes to 10 minutes.

Article 8

Article 8 makes a minor change to the Law. At present the Minister for Home Affairs must prescribe the form of ballot box used in public elections. It is considered more logical that this duty should fall on the Comité des Connétables because of the role of the Connétables in making the practical arrangements for elections to be held.

Article 9

When the 2002 Law was enacted the opening time for polling stations was brought forward to 8 a.m. This means that the polling stations are now open for 12 hours until 8 p.m. The evidence from the turnout figures since 2002 shows that there has been no overall increase in the number of persons voting because of the extra opening hours of the polls. In addition it is clear that there is an additional administrative burden for the *Autorisé* and others to open the polls for 12 hours. This Article, if adopted, will amend the opening time of the poll from 8 a.m. to 10 a.m. PPC itself is divided on the desirability of this change. Certain members of the Committee feel that the wrong message will be sent to electors at time when efforts are being made to increase participation by restricting the opening hours of the polls. Other members of the Committee feel that the benefit of 8 a.m. opening time has not been proven and that it would be more realistic to open the polls at 10 a.m. It has been pointed out that the previous tradition of allowing schoolchildren to view the sealing of the ballot boxes has been lost because of the earlier opening time. Having discussed the matter at length the Committee has concluded that this proposed change should be brought to the States for debate to allow all members to decide whether it is desirable to restrict the opening hours.

Article 10

Under the current legislation it is not possible for a person to receive a postal vote and then to vote at the polling station using the ballot paper provided. There has been evidence in recent elections that certain electors apply to vote by post because they initially do not believe they will be able to attend the polling station but then, due to a change in circumstances, go to the polling station on election day with the ballot paper they have received seeking to vote. At present these people must be turned away by the *Autorisé* and not permitted to vote. The new Article 32 (a) which is inserted by this Article would allow electors to vote in person in these circumstances. The elector must clearly produce the ballot paper sent to him by the Judicial Greffier and, in these circumstances, there is no possibility of fraud and no possibility that the person can vote both by post and in person.

Article 11

It has been custom for many years for *Autorisé* and other persons authorised by them to attend on persons on polling day to receive what have traditionally been known as “sick votes” from persons who are unable to attend the polling station through infirmity or illness. Under the legislation as currently drafted there is some uncertainty about the validity of votes collected in this manner and this new paragraph in Article 35 of the Law clarifies the position to make it clear that votes can be validly collected in this way.

Article 12

This Article is merely consequential on the provisions relating to persons whose name is excluded from the public register because of risk of harm.

Article 13

This article inserts a provision in the law that PPC believes is extremely significant and important. At present there is no restriction in the Law on candidates or their representatives assisting with the postal voting process. Candidates can, for example, assist electors to complete forms for postal voting, can take these to the Judicial Greffe and offer other assistance to enable people to obtain a postal vote. Although candidates may believe they are simply assisting electors in these circumstances, PPC is concerned that the current provision could be seen to interfere with the fairness of the election process. Any elector who has received significant assistance from a candidate or his or her representative to obtain a postal vote may feel, in some way, pressurised to vote for that candidate when the ballot paper is received from the Judicial Greffier.

This new Article would make it illegal for a candidate to assist an elector in completing the application form for a postal or pre poll vote. In addition it would make it illegal for candidates to deliver or cause to be delivered the

forms to the Judicial Greffier. For the avoidance of doubt, paragraph (2) of the new Article makes it clear that a candidate or representative can still distribute blank forms to enable a person to apply for a postal or pre-poll vote but, with the new provisions, it would be illegal for the candidate to do anything further. It would, nevertheless, still be possible for staff, for example, in an old people's home to assist residents to complete the necessary paperwork but this would distance the process from the candidate or his or her representative.

In order to give members an indication of the number of postal and pre poll votes that have been applied for and returned in recent elections the figures supplied by the Judicial Greffier for the 2002 and 2005 Deputies elections are as follows -

Deputies 2002 contested seats

Electoral District	Registered electors	Papers sent out	Papers returned	Papers not returned
St. Helier No. 1	3,483	102	73	29
St. Helier No. 2	3,526	159	100	59
St. Helier No. 3	6,506	69	66	3
St. Saviour No. 1	2,355	36	27	9
St. Saviour No. 3	1,822	23	20	3
St. Brelade No. 1	1,972	40	39	1
St. Brelade No. 2	4,238	44	38	6
St. Clement	4,650	40	38	2
Grouville	2,852	55	47	8
St. Lawrence	2,893	46	43	3
St. Martin	2,248	284	195	89
St. Mary	1,040	41	36	5
St. Ouen	2,254	31	26	5
St. Peter	2,493	28	27	1

Deputies 2005 contested seats

Electoral District	Registered electors	Papers sent out	Papers returned	Papers not returned
St. Helier No. 1	4,289	68	49	19
St. Helier No. 2	4,032	186	96	90
St. Helier No. 3	7,586	99	88	11
St. Saviour No. 1	2,692	22	19	3
St. Saviour No. 2	2,473	29	24	5
St. Brelade No. 1	2,185	36	29	7
St. Brelade No. 2	4,703	59	56	3
St. Clement	5,306	51	43	8
St. Lawrence	3,149	66	61	5
St. Mary	1,130	19	17	2
St. John	1,769	69	63	6

Article 14

This article is merely consequential on the changes made by Article 10 of this Law which inserts the new Article 32 enabling persons who have received a postal vote to vote in person at the polling station.

Article 15

This article amends Article 42 of the Law in response to concerns expressed by the Judicial Greffier. It requires any person who witnesses a declaration of identity for a postal or pre poll vote to sign the declaration and state clearly his or her name and address. This is to enable the Judicial Greffier to make appropriate enquiries about the legitimacy of the signatures if necessary.

Article 16

This article inserts a new Article 43A in the Law. Although the article appears lengthy it is, in fact, merely consequential on the new provisions relating to voters who have their names omitted from the Electoral Register because of fear of harm. This Article sets out the procedure that the Judicial Greffier must follow when dealing with applications for postal or pre poll voting by such persons. The provisions as specified enable the Judicial Greffier to check the validity of the vote submitted but still preserve the anonymity of the process when the vote is given to the *Autorisé* for the purposes of the count.

Article 17 and 18

At present the Judicial Greffier is unable to accept any postal votes submitted after noon on the day preceding the day of the poll. In practice the Judicial Greffier has, on occasions, found that votes have been received on polling day. This Article allows the postal votes to be received up to noon on polling day. The Judicial Greffier has reassured PPC that appropriate steps will be made on polling day to deliver any votes received in these circumstances to the *Autorisé* in the relevant polling station. The provisions relating to pre poll voting are not amended and related provisions about the delivery of registers etc to the *Autorisé* by the Judicial Greffier remain unchanged.

Article 19

This Article gives greater discretion to the *Autorisé* when dealing with incorrectly returned postal votes. With postal voting an elector must place the completed ballot paper in a small envelope and then include that sealed envelope in a larger envelope with the declaration of identity. The intention of the current provisions is that the person opening the first envelope can check the declaration of identity without needing to open the smaller envelope containing the ballot paper and thereby compromising the secrecy of the poll.

In practice the *Autorisés* have found that on many occasions the declaration of identity is not in the first envelope but the thickness of the ballot paper envelope makes them suspect that the declaration has been folded and sealed into the smaller ballot paper envelope. At present the *Autorisés* are not allowed to open the ballot paper envelope and the vote is therefore wasted. This provision would allow the *Autorisés* the discretion to open the ballot paper

envelope if they suspect that the declaration of identity is included within it. There is, of course, a very small risk that the secrecy of the poll will be compromised in these circumstances if the *Autorisé* sees the ballot paper but PPC believes that this is outweighed by the fact that the vote will not be wasted. *Autorisés* are persons of great integrity and PPC is not concerned that the secrecy of the poll will be unduly jeopardised in these circumstances.

Article 20

This Article removes any ambiguity from the Law about the authority of the *Autorisé* during the count. PPC is not aware of any problems that have been reported by *Autorisés* but the Jurats have expressed concern to the Committee that their authority is, theoretically, limited during the count. This Article will make it clear that the *Autorisé* is authorised to take whatever steps are necessary to ensure that the count is not disrupted in any way.

Article 21

This article is merely consequential on the change made by Article 11 of this Law relating to the collection of “sick votes” from electors.

Article 22

This Article repeals Article 54 of the principal Law which relates to the order of swearing-in in the Royal Court. In practice the Royal Court already sets its own procedure for the order of swearing and the statutory order set out in Article 54, which has not been followed in practice, is unnecessary and could potentially lead to confusion.

Article 23

This Article is merely consequential on the other changes made to the law in relation to persons whose names are omitted from the register as a result of the risk of harm.

Article 24

This Article inserts a penalty in the Law for any candidate or representative who contravenes the new restrictions on interference with the postal voting procedure. Any candidate who is found guilty of an offence is liable to a fine of up to level 3 which is currently £2,000.

Article 25

This Article is consequential on the change relation to the *Autorisé’s* powers during the count and makes it clear that it is an offence to disobey any directions of the *Autorisé* during the count.

Article 26

This Article gives a transitional provision which states that the electoral register in force when this amending Law comes into force will be the starting point for the rolling register created by these amendments. As a result there will not be any requirement for the register to be started again and the full rolling register will be instituted as soon as this amending law comes into force.

Finance and Manpower implications

PPC does not believe that any of the new provisions in this legislation will have any significant resource implications that cannot be met within the existing resources of those who manage and oversee the election process.

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 May 2008 the Chairman of the Privileges and Procedures Committee made the following statement before Second Reading of this *Projet* in the States Assembly –

In the view of the Chairman of the Privileges and Procedures Committee the provisions of the Draft Public Elections (Amendment No. 3) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

Article 1 defines the Public Elections (Jersey) Law 2002 as the “principal Law”.

Article 2 substitutes Articles 6 to 10 of the principal Law. The Articles, as substituted, have the following effect –

Article 6 Electoral registers

The principal Law currently provides for electoral registers to be prepared triennially. This Article, as substituted, provides for electoral registers to be maintained on a ‘rolling’ basis. For the future, electoral registers will not be divided into *vingtaines*, but simply into electoral districts.

Article 7 Addition and keeping of name on the electoral register

This Article re-enacts the 2 ways in which a person’s name is added to the electoral register: by completing the annual return sent by the Connétable to each household or by applying to the Connétable. The date by which a Connétable must send out the annual return to each household is put back from 1st May to 1st June.

Article 8 Exclusion or removal of name from electoral register

This Article replaces Article 6(3), setting out the process for refusing to add a name to an electoral register or removing a name from a register. Express provision is added, enabling a Connétable to remove the name of a person who has died or moved out of the parish. New provision is made for removal of a person’s name if it has not been included in an annual return for 3 consecutive years. Before removing the name, the Connétable must give notice, allowing the person 28 days to respond with confirmation of his or her entitlement to remain on the register.

Article 9 Application for name to be omitted from register

This is a new provision, enabling a person to apply to the Connétable for his or her name to be excluded from the electoral register if the person, or someone who lives with him or her, would be placed at risk of personal harm if his or her whereabouts were made public. The Connétable would be able to add to, or reinstate a name in, the electoral register once there were no longer grounds for its exclusion. A person whose name is omitted from the register would be excluded from voting in person at the polling station and would have to apply to pre-poll or postal vote.

Article 10 Appeals

This Article replaces Article 9 of the principal Law. It confers rights of appeal against decisions of a Connétable under the Law.

Article 8 of the principal Law is repealed without replacement. It is the provision requiring the Judicial Greffier to advertise, quarterly, the duty to be registered.

Article 3 makes amendments that are consequential upon the move to a ‘rolling’ electoral register.

Article 4 makes 2 changes. Firstly, where nomination meetings for 2 public elections are to be held on consecutive days, it provides for the electoral register for both of those elections to be the register in force on the day before the 1st meeting. Secondly it effectively removes the provision, which has not been brought into force, whereby anyone could obtain a copy of the electoral register in force for an election. It also provides for the Connétable to pass on to the Judicial Greffier the names and addresses omitted from the register under the substituted Article 9, as these will be required by the Judicial Greffier for the purposes of administering postal and pre-poll voting.

Article 5 allows the Royal Court to appoint a replacement if, for any reason, the person appointed as *Autorisé* is unable to perform his or her duties.

Article 6 clarifies, but does not alter the effect of, the wording of the provision whereby the nomination meeting for election of a Senator is held in St. Helier.

Article 7 reduces the minimum period of time for which a nomination meeting must remain open from 20 minutes to 10 minutes.

Article 8 provides for the Comité de Connétables to approve the model for ballot boxes, in place of the Minister for Home Affairs.

Article 9 puts back the time when a poll opens from 8 a.m. to 10 a.m.. There is no change in the time when a poll closes (8 p.m.).

Article 10 inserts a new Article in the principal Law.

Article 32A Elector registered to vote by post

This Article confers on the *Autorisé* a discretion to allow a person to vote at the polling station, even though that person has registered to vote by post. The person must bring with him or her, and use to vote, the ballot paper sent out by the Judicial Greffier. This discretion would not apply in the case of a person whose name is omitted from the electoral register under Article 9 of the principal Law, as substituted by this draft Law.

Article 11 makes it clearer that the *Autorisé*, in order to help an ill or disabled voter to vote, may visit that person, bring the person's ballot paper back to the polling station and place the paper in the ballot box.

Article 12 is consequential upon the substitution of Article 9 by *Article 2*, enabling a person whose name is omitted from the register under that Article to pre-poll or postal vote.

Article 13 inserts a new Article in the principal Law.

Article 39A Candidate or representative not to interfere with application for registration

This Article prevents a candidate or his or her representative from completing, on another person's behalf, an application to postal or pre-poll vote, from delivering such an application to the Judicial Greffe on another person's behalf or from providing transport for another person to make such an application at the Judicial Greffe. This Article does not prevent a candidate or his or her representative from providing another person with the form of application for postal or pre-poll voting.

Article 14 is consequential upon *Article 10*.

Article 15 requires a person who witnesses the form of declaration of identity that a postal or pre-poll voter must complete, to provide his or her own name and address. There is an exception to the requirement to provide an address for an officer of the Judicial Greffe who witnesses a form when a person applies to pre-poll vote.

Article 16 inserts a new Article in the principal Law.

Article 43A Formalities where person's name is omitted from electoral register under Article 9

This Article is consequential upon the substitution of Article 9 by *Article 2*. It sets out the arrangements for pre-poll or postal voting where a person's name is omitted from the register under that Article.

Article 17 allows the Judicial Greffier to accept postal votes received up to noon on the day of the poll, instead of up to noon on the preceding day, but preserves the deadline for pre-poll voting of noon on the preceding day.

Article 18 makes a change that is consequential upon *Article 17*, putting back the time by which the Judicial Greffier must deliver postal and pre-poll votes to the *Autorisé*.

Article 19 allows the *Autorisé* to deal with errors made by postal and pre-poll voters. If the *Autorisé* thinks that the voter has placed the declaration of identity in the ballot paper envelope rather than in the pre-addressed envelope, the *Autorisé* can open the ballot paper envelope to remove the declaration, without invalidating the vote.

Article 20 inserts a new Article in the principal Law.

Article 46A Supervision during count

This Article makes it clear that the *Autorisé's* authority over the polling station and its immediate vicinity continues, after the poll is closed, until counting is complete. The *Autorisé* can give directions and take steps to ensure that the count is not disrupted, impeded or interfered with.

Article 21 is consequential upon *Article 11*.

Article 22 repeals Article 54 of the principal Law (Order of swearing-in).

Article 23 is consequential upon Article 9 as substituted by *Article 2* and the insertion, by *Article 16*, of Article 43A. It requires the Judicial Greffier to destroy, after 6 months, the sealed package of declarations of identity that he or she must make under Article 43A.

Article 24 inserts a new Article in the principal Law.

Article 62A Interference with postal and pre-poll voting

This Article is consequential upon the insertion of Article 39A, by *Article 13*. It makes it an offence to contravene Article 39A.

Article 25 is consequential upon *Article 20*, providing that failure to comply with an *Autorisé's* directions under Article 46A is an offence.

Article 26 provides for the transition from electoral registers in force for 3 year periods to electoral registers maintained on a rolling basis.

Article 27 is the citation and commencement provision.



Jersey

DRAFT PUBLIC ELECTIONS (AMENDMENT No. 3) (JERSEY) LAW 200-

Arrangement

Article

<u>1</u>	<u>Interpretation</u>
<u>2</u>	<u>Articles 6 to 10 substituted</u>
<u>3</u>	<u>Article 11 amended</u>
<u>4</u>	<u>Article 12 amended</u>
<u>5</u>	<u>Article 17 amended</u>
<u>6</u>	<u>Article 19 amended</u>
<u>7</u>	<u>Article 20 amended</u>
<u>8</u>	<u>Article 26 amended</u>
<u>9</u>	<u>Article 30 amended</u>
<u>10</u>	<u>Article 32A inserted</u>
<u>11</u>	<u>Article 35 amended</u>
<u>12</u>	<u>Article 38 amended</u>
<u>13</u>	<u>Article 39A inserted</u>
<u>14</u>	<u>Article 40 amended</u>
<u>15</u>	<u>Article 42 amended</u>
<u>16</u>	<u>Article 43A inserted</u>
<u>17</u>	<u>Article 44 amended</u>
<u>18</u>	<u>Article 45 amended</u>
<u>19</u>	<u>Article 46 amended</u>
<u>20</u>	<u>Article 46A inserted</u>
<u>21</u>	<u>Article 51 amended</u>
<u>22</u>	<u>Article 54 repealed</u>
<u>23</u>	<u>Article 56 amended</u>
<u>24</u>	<u>Article 62A inserted</u>
<u>25</u>	<u>Article 66 amended</u>
<u>26</u>	<u>Transitional arrangements</u>
<u>27</u>	<u>Citation and commencement</u>



Jersey

DRAFT PUBLIC ELECTIONS (AMENDMENT No. 3) (JERSEY) LAW 200-

A LAW to amend further the Public Elections (Jersey) Law 2002

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, “principal Law” means the Public Elections (Jersey) Law 2002^[1].

2 Articles 6 to 10 substituted

For Articles 6 to 10 of the principal Law there shall be substituted the following Articles –

“6 Electoral registers

- (1) The Connétable of a parish shall prepare and maintain a separate electoral register for each electoral district that is, or is within, the parish.
- (2) The names and addresses of the persons registered in an electoral register shall be arranged in that register in 2 lists, one in alphabetical order of the persons’ names and one in street order of the persons’ addresses.
- (3) Each name included on an electoral register shall be given an electoral number.
- (4) An electoral register shall be prepared and maintained in electronic form.

7 Addition and keeping of name on the electoral register

- (1) A Connétable shall include the name of a person on the electoral register for an electoral district if the Connétable has been furnished with, or has obtained, information in respect of that person sufficient to satisfy the Connétable that the person is entitled to have his or her name included on that register.
- (2) A Connétable shall cause to be sent, not later than 1st June in every year, to every unit of dwelling accommodation in each electoral district within the Connétable’s parish, a statement –

- (a) in such form as the States may prescribe by Regulations;
 - (b) setting out the names of the persons (if any) whose names are included in respect of that unit of dwelling accommodation on the register for the electoral district; and
 - (c) requiring it be checked, corrected if necessary, signed and returned to the Connétable.
- (3) It is the duty of each person ordinarily resident in a unit of dwelling accommodation to which a statement is sent to –
- (a) check that the statement is correct;
 - (b) sign the statement; and
 - (c) ensure that it is returned, with any necessary corrections, to the Connétable by 1st July in the same year.
- (4) It is the duty of a person who is entitled to have his or her name included on the register for an electoral district at any time, and whose name is not so included, to apply for registration –
- (a) as soon as practicable;
 - (b) to the Connétable of the parish where the electoral district is located; and
 - (c) in such form as the States may prescribe by Regulations.
- (5) A Connétable shall refuse to register a person by reason of information contained in a statement or application referred to in this Article if it has not been signed by that person.
- (6) No civil or criminal liability attaches to a failure to discharge a duty under this Article.

8 Exclusion or removal of name from electoral register

- (1) If a Connétable is not satisfied that a person whose name is included in a statement returned under Article 7(3) is entitled to have his or her name added to or retained on the register, the Connétable shall serve on that person a notice –
- (a) stating that the Connétable has not added the name to the register or, as the case requires, has removed the name from the register; and
 - (b) giving the reasons for the Connétable's decision.
- (2) If a Connétable is not satisfied that a person who has applied under Article 7(4) is entitled to have his or her name added to the register, the Connétable shall serve on that person a notice –
- (a) stating that the Connétable has not added the name to the register; and
 - (b) giving the reasons for the Connétable's decision.
- (3) If a Connétable is satisfied that a person whose name is on the register is deceased or no longer resident in the electoral district, the Connétable shall remove the name from the register.
- (4) If a person whose name is included on an electoral register has not, for a period of 3 consecutive years, been included in and signed a statement returned under Article 7(3), the Connétable shall serve notice on that person stating that the Connétable shall remove the person's name from the register unless the person delivers to the Connétable, within the period of 28 days following service of the notice, confirmation, in such form as the States may prescribe by Regulations or, if none is prescribed, in such form as the Connétable requires, that the person is still entitled to have his or her name on the register.

- (5) A Connétable shall remove a person's name from the register where notice has been served on the person under paragraph (4) and the confirmation required under that paragraph has not been received within the time specified.

9 Application for name to be omitted from register

- (1) A person may apply to the Connétable for the person's name and address to be omitted from the electoral register.
- (2) An application may be made on the ground only that there would be a significant risk or threat of personal harm to the person, or to any other person who resides with him or her, if the person's name and address is included in the electoral register.
- (3) The application shall be made in such manner as the Connétable requires.
- (4) The Connétable may, from time to time, review an omission under paragraph (1) and, if the Connétable is satisfied that there are no longer grounds for it, may reinstate in, or add the person's name and address to, the register.
- (5) Where the Connétable reinstates or adds a person's name and address under paragraph (4), he or she must notify the person.
- (6) Notwithstanding Articles 2, 6 and 38 and Part 6, where a Connétable grants a person's application under this Article –
 - (a) the person shall be entitled to vote in an election, but only by postal or pre-poll vote, in accordance with arrangements applicable in his or her case under Part 7;
 - (b) the person shall be given an electoral number which shall be entered in the register against an entry signifying that the number is for a person whose name and address are omitted under this Article;
 - (c) the number and entry shall be arranged in the register in a list that is separate from the lists required by Article 6(2).

10 Appeals

- (1) A person may appeal to the Royal Court against –
 - (a) a refusal to add his or her name to the register (except a refusal under Article 7 (5));
 - (b) the removal of his or her name from the register; or
 - (c) the refusal of his or her application, or of the reinstatement in or addition to the register of his or her name, under Article 9.
- (2) An appeal shall be made within the period of 28 days following service of notice of the refusal, removal, reinstatement or addition or, if no notice is served, within the period of 28 days following the person becoming aware of the refusal, removal, reinstatement or addition.
- (3) The decision of the Royal Court on any such appeal shall be final and without further appeal.”.

3 Article 11 amended

In Article 11(2) of the principal Law the words “2002, and 1st July in each year thereafter,” shall be deleted.

4 Article 12 amended

In Article 12 of the principal Law –

(a) after paragraph (1) there shall be inserted the following paragraph –

“(1A) Notwithstanding paragraph (1), where –

- (a) 2 public elections are to be held on the same day;
- (b) nomination meetings are to be held on 2 consecutive days, for the purposes of those elections; and
- (c) but for the operation of this paragraph, there would be 2 electoral registers, as in force on 2 consecutive days, for an electoral district,

the electoral register for the district, for both elections, shall be the electoral register for the district as in force at midday on the day before the day when the first nomination meeting is held.”;

(b) for paragraph (2) there shall be substituted the following paragraphs –

- “(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 the Judicial Greffier, the *Autorisés* and *Adjoints* and the candidates for the election free of charge.
- (3) The Connétable of the parish shall provide the Judicial Greffier with a list of the names and addresses which are omitted from the electoral register under Article 9 and of the electoral number assigned to each name.”.

5 Article 17 amended

In Article 17 of the principal Law, after paragraph (2) there shall be added the following paragraphs –

- “(3) Where a person appointed as *Autorisé* is unable to discharge the duties of that office, the Royal Court may appoint another person in his or her place.
- (4) An appointment under paragraph (3) may be made, within the period of 10 days before the poll, by the Bailiff alone.”.

6 Article 19 amended

In Article 19 of the principal Law –

- (a) in paragraph (3)(a), the words “, specially convened at St. Helier by the Connétable of St. Helier” shall be deleted;
- (b) after paragraph (3) there shall be inserted the following paragraph –

“(3A) A nomination meeting for the election of a Senator shall take place in St. Helier.”.

7 Article 20 amended

For paragraph (8) of Article 20 of the principal Law there shall be substituted the following paragraph –

“(8) A nomination meeting shall not be closed less than 10 minutes after it has been opened.”.

8 Article 26 amended

In Article 26 of the principal Law, in paragraph (5), for the words “Minister for Home Affairs” there shall be substituted the words “Comité des Connétables”.

9 Article 30 amended

In Article 30 of the principal Law, for the words “8 am” there shall be substituted the words “10 am”.

10 Article 32A inserted

After Article 32 of the principal Law there shall be inserted the following Article –

“32A Elector registered to vote by post

- (1) This Article applies in the case of an elector who is registered, under Article 40(3), to vote by post and to whom a ballot paper has been sent or given by the Judicial Greffier.
- (2) If the elector attends at the polling station and produces the ballot paper sent or given to him or her by the Judicial Greffier, the *Autorisé* (or *Adjoint*) may permit the elector to vote in person, in accordance with Article 33, using the ballot paper.
- (3) Where the elector has recorded his or her vote on the ballot paper before producing it at the polling station, the *Autorisé* (or *Adjoint*) shall take such steps as he or she considers appropriate to ensure that the elector’s vote is kept secret.
- (4) Where the *Autorisé* (or *Adjoint*) permits the elector to vote in accordance with this Article, the *Autorisé* (or *Adjoint*) shall mark off the name of the person on a copy of the electoral register and on the copy of the part of the register of postal and pre-poll voters delivered to the *Autorisé* under Article 45.
- (5) This Article does not apply in the case of an elector whose name is omitted from the register under Article 9.”.

11 Article 35 amended

In Article 35 of the principal Law, for paragraph (2) there shall be substituted the following paragraph –

- “(2) Those measures may include a visit to the person for the purpose of delivering a ballot paper to the person, attending whilst the person records his or her vote on it, and bringing the ballot paper back to the polling station and placing it in the ballot box.”.

12 Article 38 amended

In Article 38 of the principal Law –

- (a) the word “or” at the end of paragraph (a) shall be deleted;
- (b) at the end of paragraph (b) there shall be added the word “or” and the following paragraph –
 - “(c) the person’s name and address are omitted from the electoral register under Article 9.”.

13 Article 39A inserted

After Article 39 of the principal Law there shall be inserted the following Article –

“39A Candidate or representative not to interfere with application for registration

- (1) A candidate, or a representative of a candidate shall not –
 - (a) complete, on behalf of a person entitled under Article 38, or assist such a person

in completing, any form required to be completed for the purposes of an application under Article 39(4);

(b) deliver, or cause to be delivered, to the Judicial Greffier, on behalf of a such a person, any form or supporting documents required for the purposes of an application under Article 39(4); or

(c) provide transport for such a person so as to enable the person to make an application in person under Article 39(4).

(2) Paragraph (1) shall not prohibit a candidate or representative of a candidate providing a person entitled under Article 38 with the form (if any) required to make an application under Article 39(4)(a).”.

14 Article 40 amended

In Article 40 of the principal Law at the beginning of paragraph (6) there shall be inserted the words “Subject to Article 32A,”.

15 Article 42 amended

In Article 42 of the principal Law, after paragraph (2) there shall be added the following paragraphs –

“(3) The form of declaration of identity shall be signed by the voter in the presence of a witness who shall also sign and state, legibly, his or her name and address.

(4) Where the form of declaration of identity is witnessed by an officer of the Judicial Greffe, the witness shall not be required to state his or her address.”.

16 Article 43A inserted

After Article 43 there shall be inserted the following Article –

“43A Formalities where person’s name is omitted from electoral register under Article 9

(1) This Article applies in the case of a person entitled to postal or pre-poll vote by virtue of his or her name and address being omitted from the electoral register under Article 9.

(2) Where any provision of this Part requires the Judicial Greffier to enter the person’s name or address in the register of postal and pre-poll voters, the Judicial Greffier shall instead enter that the person’s name and address are omitted.

(3) Where any provision of this Part requires the Judicial Greffier to make a note against the name of the person in that register, the Judicial Greffier shall instead make a note against the entry made under paragraph (2) in respect of, and the electoral number for, the person.

(4) Articles 40(6) and 43(5) shall apply as if the references in them to entering the person’s name in the register and to making a note against the person’s name in the register were references to making the entry or note in accordance with this Article.

(5) The Judicial Greffier shall open a pre-addressed envelope received from the person under Article 44 and, notwithstanding Articles 45 and 46 –

(a) if he or she is satisfied as to the matters described in Article 46(3), shall deliver the pre-addressed envelope to the *Autorisé*, opened and with the declaration of identity removed;

(b) if he or she is not so satisfied, take the action described in Article 46(4).

(6) The Judicial Greffier may take the action described in Article 46(4A) where he or she

opens a pre-addressed envelope under paragraph (5), and a ballot paper shall not be rejected by reason only that he or she has so acted.

- (7) Where the Judicial Greffier delivers a pre-addressed envelope to the *Autorisé* under paragraph (5)(a) –
 - (a) the *Autorisé* shall not be required to satisfy himself or herself as to the matters described in Article 46(3); and
 - (b) Article 46(3)(b) shall have effect as if the reference in it to the form of declaration of identity was omitted.
- (8) The Judicial Greffier shall –
 - (a) place the forms of declaration of identity removed under paragraph (5)(a) in a package used solely for that purpose; and
 - (b) seal the package, sign it, and indicate on it the information described in Article 46 (7).”.

17 Article 44 amended

In Article 44 of the principal Law –

- (a) after paragraph (2) there shall be inserted the following paragraph –

“(2A) An elector cannot make a pre-poll vote in person at the Judicial Greffe after noon of the day immediately preceding the day of the poll.”.

- (b) in paragraph (3) –

- (i) at the beginning, the words “Subject to Article 32A,” shall be inserted,
- (ii) the words “the day immediately preceding” shall be deleted.

18 Article 45 amended

In Article 45 of the principal Law –

- (a) the existing text shall be numbered as paragraph (1);
- (b) in paragraph (1), sub-paragraph (c) and the word “and” at the end of sub-paragraph (b) shall be deleted;
- (c) after paragraph (1) there shall be added the following paragraph –

“(2) The Judicial Greffier shall, before the poll closes, cause to be delivered to each *Autorisé* supervising the poll, the pre-addressed envelopes received under Article 44 for that electoral district, still unopened.”.

19 Article 46 amended

In Article 46 of the principal Law, after paragraph (4) there shall be inserted the following paragraphs –

“(4A) Where a pre-addressed envelope, on being opened pursuant to paragraph (3), is found not to contain the form of declaration of identity, but the *Autorisé* has reasonable grounds for believing that the form is in the ballot paper envelope, the *Autorisé* may open the ballot paper envelope and remove the form of declaration of identity (if there).

(4B) A ballot paper shall not be rejected by reason only that the *Autorisé* has opened the ballot paper envelope pursuant to paragraph (4A) and removed the form of declaration of identity.”.

20 Article 46A inserted

After Article 46 of the principal Law there shall be inserted the following Article –

“46A Supervision during count

- (1) The *Autorisé* shall have control over the polling station at which the count takes place, and its immediate vicinity, whilst the requirements of this Part are complied with.
- (2) The *Autorisé* may give such reasonable directions and take such reasonable measures as are necessary within the polling station at which the count takes place, and its immediate vicinity, to ensure that the count is not disrupted, impeded or interfered with and that the requirements of this Part are otherwise met.”.

21 Article 51 amended

In Article 51 of the principal Law, after paragraph (1) there shall be inserted the following paragraph –

- “(1A) A ballot paper is not invalid, for the purposes of this Law, by reason only that it is given to a person, or a person’s vote cast, in accordance with measures taken under Article 35.”.

22 Article 54 repealed

Article 54 of the principal Law shall be repealed.

23 Article 56 amended

In Article 56(1) of the principal Law, for the words “Article 46(8)” there shall be substituted the words “Articles 43A(8) and 46(8)”.

24 Article 62A inserted

After Article 62 of the principal Law there shall be inserted the following Article –

“62A Interference with postal and pre-poll voting

A candidate or representative of a candidate who contravenes Article 39A(1) shall be guilty of an offence and liable to a fine of level 3 on the standard scale.”.

25 Article 66 amended

In Article 66 of the principal Law, in paragraph (1)(g), after the words “Article 29(2)” there shall be inserted the words “or 46A(2)”.

26 Transitional arrangements

An electoral register in force for an electoral district immediately before this Law comes into force shall remain in force, on and after that date, as if it had been prepared under Article 6 of the principal Law as substituted by this Law.

27 Citation and commencement

This Law may be cited as the Public Elections (Amendment No. 3) (Jersey) Law 200- and shall come into force 7 days after it is registered.

