

# **STATES OF JERSEY**



## **DRAFT PUBLIC ELECTIONS (AMENDMENT No. 4) (JERSEY) LAW 201-**

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**Lodged au Greffe on 27th January 2011  
by the Privileges and Procedures Committee**

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**STATES GREFFE**





## **DRAFT PUBLIC ELECTIONS (AMENDMENT No. 4) (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 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. 4) (Jersey) Law 201- are compatible with the Convention Rights.

(Signed) **Connétable J. Gallichan of St. Mary**

## **REPORT**

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### **Introduction**

This amending Law is being brought forward by PPC to give effect to the recommendations of the Public Elections Working Party that was established by PPC to review the current operation of the Public Elections (Jersey) Law 2002 and to make recommendations for change. The Working Party was chaired by the then Vice-Chairman of PPC, Deputy Collin Egré of St. Peter, and the members were Connétable Peter Hanning of St. Saviour representing the Comité des Connétables, and Deputy Montfort Tadier of St. Brelade who, at the time of this appointment, was a member of PPC. The Working Party's Report was presented to the States by PPC on 2nd July 2010 (R.94/2010). PPC subsequently considered the recommendations and is bringing forward these amendments to give effect to the recommendations that have been agreed by the Committee. The only significant recommendation of the Working Party that was not agreed by PPC was that the opening time for polling stations should be changed so that the poll would open at 9 a.m. and not 8 a.m.

### **Articles 1, 2 and 3**

Article 1 is the usual interpretation provision. Article 2 updates an outdated cross-reference in the 2002 Law and makes other changes that are consequential on the substantive amendments later in the Law. Similarly, Article 3 makes consequential changes following the replacement of Part 7 of the principal Law by this draft Law.

### **Article 4**

This Article is the first of a number of amendments to the Law which make changes to facilitate and accommodate the new single election day, when it is possible that contested elections for Senators, a Connétable and Deputies will all be held on the same day. Article 4 amends Article 12 of the 2002 Law in relation to the production of Electoral Registers. The Law was amended in 2008 to accommodate the single election day for Senators and Connétables, and at present the 2008 Law states that where nomination meetings are held on consecutive days, the same Electoral Register can be used for both elections. This minor amendment to Article 12 simply extends the reference to include "2 or more public elections" so that the Electoral Register in force at midday on the day before the day when the first nomination is held can be used for all elections.

### **Article 5**

As set out in its Report, the Public Elections Working Party considered carefully whether a candidate should be permitted to stand in more than one election when several elections are being held on the same day. The Working Party received legal advice on the consequences of making any restrictions and the recommendation made was in line with the legal advice received.

The Working Party pointed out that being elected to 2 or even 3 positions on one day would result in a number of difficulties, as a member could clearly not actually serve in more than one capacity. As a result it would be necessary for the member concerned to vacate one or more of the offices, resulting in the practical consequence that when the new States were constituted there would already be a number of vacancies to be filled by by-elections. This would mean that the Assembly would not be fully

constituted for the important elections of Chief Minister, Ministers and the various Chairmen and members of Panels and Committees. In addition, any member elected in a subsequent by-election would be too late to be considered for a position of official responsibility as the post-holders would already have been appointed. The Working Party therefore recommended that candidates should be prevented from standing for more than one office at the same time, thereby extending the restriction already in force for 2008 that prevented a person being nominated for both the office of Senator and Connétable.

Article 18 of the 2002 Law as amended by this Article provides that if a person is nominated for more than one office in relation to elections being held on the same day, any later nomination cancels an earlier nomination. This means that in practice a person who may have been nominated for the position of Senator one day, but who is then nominated as Deputy the following day, would see his or her nomination for Senator cancelled. The Working Party considered whether it was preferable to prevent candidates being nominated for more than one office, but felt that this alternative, allowing flexibility for candidates to change their mind, was preferable. The practical consequence of the amendment is that at the end of the 2 days of nomination meetings each candidate will only be validly nominated for one office.

## **Article 6**

Article 6 makes 2 separate changes to Article 20 of the 2002 Law. The first change, set out in paragraph (1), is not a matter that was considered by the Public Elections Working Party, and is a matter that is brought forward by PPC following concerns expressed to the Committee following the Senatorial by-election in June 2010. PPC received representations in relation to the fact that 9 candidates had stood for one position, and several candidates had received an extremely low number of votes, indicating that the candidates concerned perhaps had little realistic prospect of success. Those who expressed concern to PPC pointed out that if there was a large number of candidates, some of whom had little realistic prospect of success, it was more difficult for electors to hear the views of those candidates likely to obtain a reasonable percentage of the voters. PPC is therefore bringing forward this amendment which provides that any person being nominated as a Senator must have his or her nomination paper signed by a proposer and 11 seconders, with one of the 12 people coming from each of the 12 parishes. PPC considers that no serious candidate for Senator should have any difficulty obtaining signatures from across the 12 parishes, and if the Island-wide mandate is to have any meaning, it does not appear unreasonable to PPC to suggest that candidates should be able to show some initial support across the Island before standing for the position. PPC noted that one candidate in the 2010 by-election received no votes at all in 3 parishes and only one vote in 4 other parishes, indicating that the candidate concerned did not appear to show any Island-wide support before standing for the position.

The second change made by Article 6(2) arises from a recommendation of the Working Party. At present, candidates are not able to use any “known” names on the ballot paper. In the present Assembly, for example, it is well known that the Deputy of St. Martin, although Frederick John Hill, is always known as Bob Hill. Similarly, John Benjamin Fox is commonly known as Ben Fox. The Working Party noted that in Guernsey, candidates are able to include known names on the ballot paper, and this amendment allows the use of any name by which a candidate is commonly known on the nomination form and then on the ballot paper.

## **Article 7**

This Article does not arise from the work of the Working Party but is a further policy change brought forward by PPC in response to concerns expressed following the June 2010 by-election. PPC has also received correspondence in relation to this matter from the Standing Conference of Women's Organisations of Jersey. The new Article 21A introduces a deposit for any candidate in an election for Senator, Connétable or Deputy. The deposit is initially set at an amount of £500, which the Committee believes is an appropriate balance between the need to make the deposit meaningful without placing too great a financial hurdle in the path of those who wish to stand for the States. In common with deposit systems used in other jurisdictions, the deposit will be returned to candidates if they receive a certain percentage of the votes, which in this Law has been set at 5% of the persons voting in the poll. PPC accepts that there will be those who consider that any form of deposit is unfair, as it may prevent some persons from putting themselves forward for office in the States. PPC believes that this must nevertheless be balanced against the desirability of ensuring that any person who wishes to stand for election, and thereby gain a place on the hustings platform and an entry in any free publication about the candidates, must have some serious chance of obtaining support from at least 5% of the voters or be willing to sacrifice the deposit. Deposits are a common feature of elections in many jurisdictions, and are a common feature of elections in the United Kingdom, where the £500 figure is the deposit for the UK parliament, for the Scottish Parliament and the National Assembly for Wales. Some deposits are significantly larger, for example in relation to the Mayor of London, where a £10,000 deposit is required.

Under the proposed Article 21A, the deposit will have to be paid in cleared funds before the nomination can be made at the nomination meeting. Deposits will only be forfeited if the candidate is not elected and less than 5% of the persons voting in the election vote for the candidate. The arrangements for forfeiting deposits mirror the arrangements for the costs of elections under the 2002 Law. Under the 2002 Law, the States are required to meet the cost of an election for Senators and therefore any forfeited deposits are paid into the consolidated fund. The costs of elections for Deputies or Connétables are met by the parishes and any forfeited deposits in those elections are therefore retained by the parish concerned.

## **Article 8**

This Article amends Article 22 of the 2002 Law and makes consequential changes following the substantive amendments made by other parts of the amending Law. The Article relates to the notice that the Connétable of a parish must publish, and amends the 2002 Law to specify that the notice must give the office for which the poll is being held and give details of any known names of the candidates that have been declared on the nomination paper and that will be used on the ballot paper.

## **Article 9**

This Article makes 3 changes to the format of the ballot paper. The first change is a consequential change in relation to known names to allow a known name to be used on the ballot paper. The second change allows the States to make Regulations to specify the type of paper on which ballot papers may be printed. This arises from a recommendation of the Working Party that different coloured paper should be used for the different elections being held on the same day, so that electors can easily distinguish between the ballot papers and to facilitate the count. The third change is that the ballot paper itself will show at the top the nature of the election concerned and

the number of votes an elector may cast in the election. In this way an elector will, for example, clearly see indicated that the ballot paper relates to an election for Senators and that each elector may cast up to 4 votes.

### **Article 10**

Article 10 amends Article 6 of the 2002 Law. A minor change is made to remove the requirement to display a copy of Articles 28 to 36 of the 2002 Law in every booth. PPC cannot see any practical benefit in displaying lengthy extracts from the Law when electors remain in the booth for only a matter of seconds, particularly as the extracts that are currently displayed run to some 5 pages of legislation. The second change made by this Article relates to the ballot box and specifies that the ballot box must be marked with the election for which it is being used. In practice, with the single election day there will be up to 3 ballot boxes in each polling station, and PPC considers it is appropriate for the box to be marked clearly so that electors are clear which box to put the ballot paper into. PPC hopes that in practice, the same colour coding will be used for the ballot papers and the ballot boxes to facilitate the voting process.

### **Article 11**

When elections for Senators and a Connétable, together with a referendum, were held in some parishes in 2008, there was some confusion as to whether electors arriving in the polling station should automatically be handed ballot papers for the 3 elections, or whether electors should be asked which elections they wished to vote in, in case an elector wished to vote, for example, in the referendum and for a Connétable, but not for Senators. The amendments made by this Article to Article 32 of the 2002 Law put the matter beyond doubt, by requiring the Autorisé or Adjoint to ask each elector which elections he or she wishes to vote in, and then only handing relevant ballot papers to the elector. The Electoral Register is then marked to show which elections the elector has chosen to vote in. When the Working Party considered this matter, and discussed the practical arrangements with the Jurats, it was agreed that the alternative, whereby electors would be automatically handed all ballot papers whether they wished to vote in the elections or not, was unsatisfactory as it could simply lead electors to spoil ballot papers or even take them away from the polling station without completing them. This could lead to difficulties with the reconciliation of the number of votes cast.

Under the amendments proposed, it is theoretically possible for an elector to go to the polling station and choose not to vote in a particular election and then to return later in the day and vote in that election although, in practice, PPC cannot imagine that this will happen on anything but extremely rare occasions.

### **Article 13**

This Article makes a small consequential change to Article 3 of the 2002 Law to make it clear that the vote must be placed in the relevant ballot box when more than one ballot box is being used in the polling station. The Autorisé will nevertheless check for any missing ballot papers that may have been put in the wrong ballot box by mistake, and it will not in any way invalidate a vote for it to be placed in the wrong ballot box.

### **Article 14**

As explained below, PPC is proposing revised arrangements for the taking of votes from persons who are sick or disabled and, as a result, Article 35 of the 2002 Law is

amended to clarify that the taking of “sick votes” by the Autorisé is restricted to polling day. This mirrors the current arrangements, but the matter is being put beyond doubt in view of the new arrangements described below in relation to pre-poll voting.

## **Article 15**

This Article substitutes the whole of Part 7 of the 2002 Law which relates to postal and pre-poll voting procedures. The changes follow the recommendations of the Working Party, which was keen to ensure that voting is made as simple and accessible as possible to electors who, for whatever reason, are unable to attend the polling station to cast their vote on polling day.

In relation to pre-poll voting, the changes are relatively simple and should hopefully go some considerable way to assisting voters. The first significant change is that the pre-poll voting system is opened to all electors through substituted Article 38. Under the current Law, the voter must be able to satisfy the Judicial Greffier that he or she will be out of the Island during the hours of polling or have some commitment or disability that would prevent him or her attending at the polling station. PPC considers that some voters, for example those who work every day in St. Helier, may prefer to cast their vote at the Judicial Greffe before polling day, and PPC sees no reason to restrict pre-poll voting as happened when the 2002 Law was enacted. In addition, the current pre-poll voting procedures are simplified in the Law so that, in practice, an elector attending at the offices of the Judicial Greffe is treated almost in the same way as a voter attending at a polling station. The voter will be asked to produce identity and then asked which elections he or she wishes to vote in. The elector will then be given the relevant ballot papers to complete, which he or she will do in a private way before placing the ballot paper in an envelope to ensure that the secrecy of the poll is maintained. PPC considers that these procedures will not only simplify the pre-poll procedures for electors, but they will also reduce the work required by officers of the Judicial Greffe, which will go some way to offset the potential increase in the number of pre-poll voters following the lifting of the current restrictions on who may pre-poll.

Another extremely important change to the pre-poll voting system is found in inserted Article 42(11). The new provision is inserted as part of the changes being proposed to the postal voting system described below. New Article 42(11) specifies that in the case of a voter who is ill, disabled or illiterate, the Judicial Greffier shall take such measures as he or she considers appropriate for taking the voter’s pre-poll vote. The wording mirrors the current “sick vote” procedure already in place on polling day, which is found in Article 35 of the 2002 Law. Following discussions with the Deputy Judicial Greffier, it has been agreed that the Judicial Greffe will take on temporary staffing who will be able to go out on request to voters who are unable to attend the polling station because of illness, disability or illiteracy, to take a vote from the person. The Working Party was extremely concerned that the current postal voting procedures that are in place for such electors are extremely complex, with a requirement for an initial application to be made, followed by the completion of a complex procedure once the voting papers and associated envelopes and declaration of identity are received back from the Judicial Greffe. The Working Party was concerned to note from statistics produced by the Judicial Greffe that a significant percentage of postal votes that are sent out were never returned in some constituencies, indicating that voters found the process complex. PPC considers that it is particularly ironic that the complex postal voting procedure was made available to people who are illiterate who, by definition, may have had significant difficulties in completing complex paperwork. PPC considers that the new system, where independent officers would attend on request at a voter’s home address, is a significant improvement on the

current system and will have the added benefit of ensuring that the integrity of the voting system is in no way compromised. In practice, PPC considers that it is likely that the new system will be operated through a partnership between the parishes and the Judicial Greffe, so that any voter who wishes to avail himself or herself of the new pre-poll voting system could contact the Parish Hall which would, in turn, notify the Judicial Greffier so that one of the dedicated officers could make arrangements to take the elector's vote. The Judicial Greffe is aware that there will be an additional resource requirement to staff the new system, but the additional officers will only need to be in post for a short period in the lead-up to the poll, and PPC considers that the cost of these officers can be justified in view of the significant benefit for electors.

The changes to the postal voting system are less significant, with the only significant change being that, as a result of the new pre-poll vote collection system being put in place, postal voting is restricted to those who are likely to be out of Jersey during the hours of polling, or whose names and addresses are omitted from the electoral register under Article 9, which provides that electors may have their name omitted if there would be a significant risk or threat of personal harm if the person's name appeared on the register. (The provision was inserted in the Law particularly to cover persons who may need to avoid publication of their name and address as a result of domestic violence.) In practice, the majority of the postal votes requested are in relation to persons who will be out of the Island on polling day, either because they will be on holiday or because they are studying or working temporarily out of the Island. PPC is therefore fully satisfied that no-one will be prejudiced by the removal of the right for the sick and disabled or illiterate in Jersey to use the postal voting system, and is fully satisfied that the new system of pre-poll voting described above will more than compensate for the change.

Two other small changes are made to the postal and pre-poll voting system by the revised Part 7. Firstly, the requirement for the Judicial Greffier to publish a notice of the arrangements is simplified in revised Article 40. PPC is aware that there has been criticism in the past of the notices published in the Jersey Gazette in relation to elections, and believes it is appropriate to give greater discretion to the Judicial Greffier who has, in the past, had no discretion other than to publish a notice in the Jersey Gazette in accordance with the statutory requirements. PPC believes that revised Article 40 will allow the Judicial Greffier to publish notices in other ways if he or she wishes. The second minor change relates to the closing time for pre-poll voting, which is fixed at 2 p.m. on the Monday before the poll. As can be seen from the Law, there are a number of procedures that the Judicial Greffier must complete in order to forward all necessary paperwork and ballot papers to the relevant Autorisé before polling day, and PPC believes it is therefore reasonable to allow one working afternoon and one full working day to complete these procedures following the closure of the pre-poll voting system.

### **Article 16**

This Article is a simple technical change to the Law. At present Article 46A, which is in identical terms to this Article A47, is inadvertently placed at the end of Part 7 of the Law and not in Part 8 which relates to the count. There are no changes of wording at all to the Article and it is merely being moved to its correct place in the Law.

### **Article 17**

The Working Party discussed with the Jurats the practical consequences of the single election day when up to 3 elections could be held in each polling station. The Working

Party agreed with the Jurats that there could often be occasions when it would not be physically possible to count all the votes on election night and, in these circumstances, certain counts may need to be deferred to the following day. This will take away some of the excitement of election night, but is clearly an inevitable practical consequence of a single election day. This amendment to Article 49 of the 2002 Law simply makes it clear that the ballot boxes must be kept secure if it is not possible to commence the count immediately after the close of the poll. It is possible that the Autorisé may need to open one or more of the ballot boxes that are not being counted in case votes have been placed in the wrong box, but in these circumstances the ballot boxes will be resealed and kept secure until the count commences.

### **Articles 18, 19 and 21**

These Articles simply make consequential changes to cross-references and other matters as a result of earlier changes to the Law.

### **Articles 20 and 22**

These Articles extend the time within which an application to dispute an election can be made to the Royal Court, and within which civil actions or criminal prosecutions arising out of a public election can be made. At present, any application to dispute an election must be made within 6 months of the day when the result is presented to the Royal Court, and Article 20 extends this to 12 months. The time limitation on civil action or criminal prosecution is currently even more restrictive, as the period is 6 months from the date the election is ordered. In practice, for elections being held in October, the Royal Court may order the elections in late August, meaning that the 6 month period expires in February the following year. If ever there were a requirement for extensive investigations into allegations, for example, of fraud, it is possible that the 6 month period would be inadequate. PPC is therefore recommending that both periods be extended to 12 months from the date of the election.

### **Article 23**

This is the traditional citation and commencement provision, although as can be seen, the commencement has 2 options depending on when the Law comes back from the Privy Council for registration. Although PPC very much hopes that the Law will receive Privy Council consent in time to be registered before 12th August 2011 and therefore be in force for the elections this autumn, it is necessary to insert a provision that an Appointed Day Act would be used if the Law were registered after that date. Clearly it would be extremely unsatisfactory and cause significant practical difficulties if the Law were registered in the middle of the election campaign in the autumn and, in the circumstances, it would be necessary to defer bringing it into force through an Appointed Day Act until after the elections.

### **Financial and manpower implications**

The only financial and manpower implications for the States arising from this Law relate to the new pre-poll procedures, where the Judicial Greffier will need to make officers available to take votes from the sick, disabled and illiterate. This may mean the secondment or recruitment of officers for a short period of some 2 to 3 weeks to undertake the work, and it is estimated that some 3 or 4 staff may be needed for this task. The cost is therefore estimated at a maximum of some £5,000 to £6,000, and PPC is willing to transfer this sum to the Judicial Greffier for the 2011 elections. The on-going source of funds for this purpose can then be discussed for future years. Although the lifting of restrictions on pre-poll voting could mean that additional voters

avail themselves of this facility and increase pressure on the Judicial Greffe, it is hoped that this will be offset by the simplification of the pre-poll procedures and the replacement of certain postal voting by the new pre-poll system.

#### **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 25th January 2011 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. 4) (Jersey) Law 201- are compatible with the Convention Rights.

## **Explanatory Note**

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

*Article 2* updates a cross-reference in the definitions, replacing a reference to the States of Jersey Law 1966 with a reference to the States of Jersey Law 2005 and expands another definition having regard to the replacement of Part 7 of the principal Law by this draft Law.

*Article 3* makes a change that is merely consequential upon the replacement of Part 7 of the principal Law by this draft Law.

*Article 4* amends Article 12 of the principal Law, which describes the electoral register that is in force for an election. The amendment takes account of the fact that there will in future be 3 ordinary elections on one day.

The amendment expands the rule introduced in 2008, applicable where 2 elections were held on the same day. If the nomination meetings for all of the public elections to be held on a single day are spread across 2 days, there is a single electoral register for all of the elections, being the register in force at midday on the day before the day of the first nomination meeting. If the nomination meetings were spread across more than 2 days, the default rule would prevail, namely that, for each election, the register would be the register in force at midday on the day before the meeting.

*Article 5* amends Article 18 of the principal Law. Article 18 imposes the requirement for a candidate in a public election to be proposed and seconded. In 2008, Article 18 was amended to provide that a person could not be, at the same time, a candidate for election as both a Senator and a Connétable. This amendment expands that rule so that, where there are, on a single day, elections for Senators, Connétables and Deputies, a person cannot be a candidate in more than one of those elections. If, then, a person is admitted as a candidate at one nomination meeting, and then admitted as a candidate in a subsequent nomination meeting, the earlier nomination lapses.

*Article 6* amends Article 20 of the principal Law. Article 20 sets out the procedure at the nomination meeting. Two substantive changes are made.

Firstly, the number of persons required to second the nomination of a candidate in a Senatorial election is increased from 9 to 11. Furthermore, the proposer and 11 seconds must be comprised of persons who, between them, are entitled to vote in each of the 12 parishes. A power is taken for the States, by Regulations, to amend this requirement and the requirement for 9 seconds for a candidate in any other public election.

Secondly, a candidate is permitted to declare, in the nomination document, any forename or surname by which the candidate is commonly known and which the candidate wishes to appear on the ballot paper. Once the declaration is made, it cannot be withdrawn.

*Article 7* inserts a new Article 21A. This Article requires a candidate in an election for Senator, Connétable or Deputy to pay a deposit of £500.

The deposit is automatically refunded if the candidate’s nomination lapses by reason of the candidate being nominated at a subsequent nomination meeting; if the election

is uncontested and the candidate takes office without a poll; or if the candidate dies before the day of the poll.

If, before the poll, the candidate becomes disqualified for office, the Royal Court already has power, under Article 23 of the principal Law, to make such order as it thinks fit. That power is extended so that the Court may further order that the candidate's deposit is either returned or forfeited.

In any other case where the candidate withdraws before the poll, the person who convened the nomination meeting, and who holds the deposits, has a discretion as to whether to return the candidate's deposit.

If a candidate is elected, his or her deposit is returned. If a candidate is unsuccessful but gains votes from at least 5% of the persons voting in the poll, his or her deposit is returned. Other unsuccessful candidates lose their deposit.

A forfeited deposit paid by a candidate for election as a Senator is paid into the consolidated fund.

A forfeited deposit paid by a candidate for election as a Connétable or Deputy is paid to the parish in which the election took place.

Power is given to the States to make Regulations amending the amount of the deposit and the 5% threshold below which an unsuccessful candidate forfeits his or her deposit.

*Article 8* amends Article 22 of the principal Law. Article 22 requires the Connétable of a parish to publicize the fact that a poll for a public election is to be held in the parish. The amendment expands the information to be publicized so that the office for which the election is held must be specified and any name by which a candidate is commonly known (declared under Article 20 as amended) must be specified in addition to the candidate's given names.

*Article 9* amends Article 24 of the principal Law. Article 24 is concerned with the arrangements for printing of ballot papers. Three substantive changes are made.

Firstly, provision is made to include on a ballot paper the alternative name by which a candidate is commonly known.

Secondly, as part of the arrangements for 3 public elections being held on a single day, a ballot paper will specify the office for which the election is being held.

Thirdly, the States are given power by Regulations to specify the paper on which the ballot papers are printed. For example, where 3 public elections are being held on a single day, different colour paper might be specified for use in different elections.

*Article 10* amends Article 26 of the principal Law. Article 26 requires the Connétable of a parish to provide polling stations and specifies the information and equipment to be provided in a polling station. Two changes are made.

Firstly, the requirement to display a copy of Articles 28 to 36 of the principal Law in each booth is removed.

Secondly, in anticipation of 3 ordinary elections being held on a single day, there must be at least one ballot box at a polling station for each election, and each box must be marked so as to make it clear in which public election it is being used.

*Article 11* amends Article 32 of the principal Law. Article 32 sets out the administrative procedures that an Autorisé must follow when giving a ballot paper to an elector. If more than one public election is being held on a single day, it is made clear that the Autorisé must ask a voter in which elections the person wishes to vote, and give the voter ballot papers for those elections. The Autorisé then marks the copy of the electoral register accordingly. So, if a voter decides to vote in one election only but later in the day changes his or her mind, the voter is not prevented from returning to the polling station to vote in the other elections.

*Article 12* amends Article 32A of the principal Law. Article 32A enables a person to vote at the polling station despite having arranged to vote by post. The amendments are to the administrative procedures that an Autorisé must follow to mark the register when a person votes, in a case where multiple elections are being held on the same day.

*Article 13* amends Article 33 of the principal Law, which is concerned with how a person votes. The amendment merely requires that a ballot paper must be placed in the correct ballot box for the election in which it is cast.

*Article 14* amends Article 35 of the principal Law, which is concerned with the arrangements for taking the vote of a person who is ill or disabled. It is made clear that Article 35 only applies to arrangements made by the Autorisé on the day of the poll. The substituted Article 42, below, contains provision for the Judicial Greffier to take the pre-poll vote of a person who is ill or disabled.

*Article 15* replaces Part 7 of the principal Law, which is concerned with arrangements for voting other than at a polling station. The substituted Articles are as follows –

### **37 Interpretation**

This Article merely contains definitions that are used only in Part 7.

### **38 Persons entitled to pre-poll vote**

The right to pre-poll vote is extended to all voters.

### **39 Persons entitled to postal vote**

This right is made more restricted. The right to postal vote if a person has commitments or a disability that prevents the person attending in person to vote on polling date is removed. The right to postal vote is confined to persons likely to be out of Jersey during polling hours and persons whose names and addresses are omitted from the electoral register under Article 9 of the principal Law. Article 9 is the provision that allows a person's name and address to be omitted from the electoral register if its inclusion would be a risk to the person's physical safety.

### **40 Judicial Greffier to publish notice of arrangements for pre-poll and postal voting**

This Article replaces Article 39(1) to (3) of the principal Law and requires the Judicial Greffier to publicize the arrangements for pre-poll and postal voting. The requirement is made less prescriptive, in that the express requirement to publish a notice in the Jersey Gazette on 2 different days is removed. Instead the Judicial Greffier is charged with taking such steps as he or she believes necessary to bring to the attention of the public the arrangements for pre-poll and postal voting.

## **41 Judicial Greffier to be provided with ballot papers and copies of registers**

This Article simply requires the person who convenes a nomination meeting for an election to provide the Judicial Greffier with a copy of the electoral register and ballot papers for use in the election.

## **42 Procedure for pre-poll voting**

This Article sets out the procedure for pre-poll voting. A person who wishes to pre-poll vote must attend at the Judicial Greffe no later than 2 p.m. on the Monday before the poll (held on a Wednesday). The person must be able to satisfy the Judicial Greffier that he or she is entitled to vote. The Judicial Greffier, in handing the person ballot papers, follows the same procedure as an Autorisé acting under Article 32 of the principal Law, as amended by this draft Law.

Once the Judicial Greffier has given a person a ballot paper and marked his or her copy of the electoral register to record that fact, the person can only vote in the poll at the Judicial Greffe, and is prevented from voting at the polling station.

A voter pre-poll voting at the Judicial Greffe marks his or her ballot paper or papers, places it or them in a ballot paper envelope and gives the ballot paper envelope to the Judicial Greffier.

In addition, the Judicial Greffier must make such arrangements as he or she considers appropriate for taking the pre-poll vote of a person who is sick, disabled or illiterate. Such arrangements may include visiting the person to take the person's vote.

## **43 Application to postal vote**

This Article sets out the procedure for applying to vote by post. The procedure is only changed to the extent necessary to reflect the fact that 3 public elections will, in future, take place on the same day. The applicant must be able to satisfy the Judicial Greffier that he or she is entitled to vote. The Judicial Greffier must either give or send the person a ballot paper for each election in which the person is voting, a ballot paper envelope in which to put the ballot paper or papers, a form of declaration of identity and a reply paid envelope, in which to return the documentation to the Judicial Greffier. Once the documentation has been sent to the person, he or she cannot pre-poll vote, but may vote at the polling station, as permitted by Article 32A of the principal Law.

## **44 Procedure for postal voting**

This Article sets out the procedure for voting by post. A postal vote must be received by the Judicial Greffier no later than noon on the day of the poll in order to be included in the count.

#### **45 Duty of Judicial Greffier to provide information to Autorisé before poll opens**

After the closing time for pre-poll voting, but before the poll opens, the Judicial Greffier must send to each Autorisé the copy of the register marked up by the Judicial Greffier and return the unused ballot papers.

#### **46 Duty of Judicial Greffier to forward votes to Autorisé before poll closes**

The Judicial Greffier must send to each Autorisé, before the poll closes, the ballot paper envelopes containing pre-poll votes and the reply paid envelopes containing postal votes.

#### **46A Duties of Autorisé on receipt of pre-poll and postal votes**

This Article re-enacts the duties of the Autorisé in relation to the pre-poll and postal votes that are sent by the Judicial Greffier. The only difference is that, if there are multiple elections on a single day, it will fall to the Autorisé, having opened the ballot paper envelopes, to post the different ballot papers in the appropriate ballot boxes.

#### **46B Name accidentally omitted from electoral register**

This Article re-enacts Article 41 of the principal Law, enabling the Judicial Greffier to add to an electoral register the name of a person who wishes to pre-poll or postal vote, if that person's name has been omitted from the register due to an administrative error.

#### **46C Formalities where person's name is omitted from electoral register under Article 9**

This Article re-enacts Article 43A, setting out the administrative arrangements where a voter's name and address has been omitted from the electoral register pursuant to Article 9 of the principal Law.

#### **46D Candidate or representative not to interfere with application to postal vote**

This Article re-enacts Article 39A of the principal Law, but with one change. A candidate or candidate's representative is no longer prohibited from providing transport for a person in order to enable the person to apply to postal vote.

*Article 16* inserts Article A47 in the principal Law at the beginning of Part 8, which is concerned with the conduct of the count. Article A47 simply re-enacts Article 46A, which was inserted in Part 7 in 2008, and which gives the Autorisé control over the polling station during the count.

*Article 17* amends Article 49 of the principal Law. If there are polls for 3 elections on the same day, it is most likely that the counts will be conducted one after the other, rather than at the same time. Therefore, this amendment requires the Autorisé to ensure that ballot boxes for an election, and associated packages, are kept secure until the count. Further, the Autorisé must inform any person who has a right to be present at the count of the time when the count will commence.

*Article 18* amends Article 51 of the principal Law. Article 51 specifies the circumstances in which a ballot paper is invalid. The changes made are purely consequential upon the rewrite of Part 7.

*Article 19* amends Article 56 of the principal Law. Article 56 specifies requirements for keeping documents used in a poll and then destroying them. The amendments are purely consequential upon the rewrite of Part 7.

*Article 20* amends Article 57 of the principal Law. Article 57 extends from 6 to 12 months the time within which an application to dispute an election must be made to the Royal Court.

*Article 21* amends Article 62A of the principal Law (the offence of interfering with postal or pre-poll voting) consequentially upon the replacement of Article 39A of the principal Law with Article 46D, inserted by Article 15 of this draft Law.

*Article 22* alters the period of limitation on civil actions and criminal prosecutions arising out of a public election from a period of 6 months commencing on the day the election is ordered by the Court to a period of 12 months commencing on the day of the election.

*Article 23* provides for the citation and commencement of the Law. The arrangements for commencement are designed to ensure that the draft Law does not commence halfway through the election process. Therefore, if the Law is registered in the Royal Court on or before 12th August 2011, it shall come into force on the day of its registration. But, if it is registered after that date, it shall come into force in accordance with an Appointed Day Act.





## **DRAFT PUBLIC ELECTIONS (AMENDMENT No. 4) (JERSEY) LAW 201-**

### **Arrangement**

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## **DRAFT PUBLIC ELECTIONS (AMENDMENT No. 4) (JERSEY) LAW 201-**

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

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*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 –

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### **1 Interpretation**

In this Law “principal Law” means the Public Elections (Jersey) Law 2002<sup>1</sup>.

### **2 Article 1 amended**

In Article 1 of the principal Law –

- (a) in the definition “constituency” for the words “the States of Jersey Law 1966” there shall be substituted the words “the States of Jersey Law 2005”;
- (b) for the definition “electoral number” there shall be substituted the following definition –

“‘electoral number’ means the number assigned, in an electoral register for an electoral district, to a person entitled to vote in that district;”.

### **3 Article 9 amended**

In Article 9(6) of the principal Law, for the words “and 38” there shall be substituted the words “, 38 and 39”.

**4 Article 12 amended**

In Article 12(1A) of the principal Law –

- (a) in sub-paragraph (a) for the words “2 public elections” there shall be substituted the words “2 or more public elections”;
- (b) for the words “for both elections,” there shall be substituted the words “for each election.”.

**5 Article 18 amended**

For Article 18(2) of the principal Law there shall be substituted the following paragraphs –

- “(2) Where 2 or more elections for one or more Senators, Deputies or Connétables are held on the same day, a person cannot be admitted as a candidate in more than one of those elections.
- (3) Accordingly, for the purposes of paragraph (2), if a person, having been admitted as a candidate in one of those elections, is subsequently admitted as a candidate in another of those elections, the earlier admission as a candidate shall lapse.”.

**6 Article 20 amended**

(1) In Article 20 of the principal Law –

- (a) for paragraph (4) there shall be substituted the following paragraphs –
- “(4) Subject to Article 21A, the nomination of a candidate for a public election shall be made by the production to a nomination meeting of a document, which shall be –
  - (a) in such form as the States may prescribe by Regulations; and
  - (b) subscribed by –
    - (i) in the case of an election of a Senator, a proposer and 11 seconders, who satisfy the requirements in paragraph (4AA),
    - (ii) in the case of any other public election, a proposer and 9 seconders, all 10 of whom shall be persons entitled under Article 2(1) or (2), as the case requires, to vote for that candidate in any poll held for the election.

- (4AA) The 12 persons mentioned in paragraph (4)(b)(i) shall consist of one person, for each of the 12 parishes, who is entitled, under Article 2(3), to vote in the election by reason of his or her name being on the electoral register for the parish.”;
- (b) in paragraph (4B) for the words “9 seconders” there shall be substituted the words “the seconders required by paragraph (4)(b)”;
- (c) after paragraph (4D) there shall be inserted the following paragraph –

- (4DA) The States may, by Regulations, amend in paragraphs (4) and (4AA) the number and description of persons required to subscribe to the document described in paragraph (4).”.
- (2) In Article 20 of the principal Law –
- (a) after paragraph (4C) there shall be inserted the following paragraph –
- “(4CA) A prospective candidate may further declare, in the document described in paragraph (4), any family name or forename by which the candidate is commonly known and which the candidate wishes to appear on the ballot paper.”;
- (b) in paragraph (4D) after the words “paragraph (4B)” there shall be inserted the words “or (4CA)”.

## 7 Article 21A inserted

After Article 21 of the principal Law there shall be inserted the following Article –

### “21A Deposit paid by candidate

- (1) Where a nomination meeting is for the nomination of candidates for the office of Senator, Deputy or Connétable, a candidate may not be nominated unless the candidate has paid to the person who convened the meeting or the person presiding at the meeting, in the manner specified in paragraph (2), a deposit of £500.
- (2) The deposit may be paid –
- (a) by the deposit of any legal tender;
- (b) by means of a banker’s draft drawn on a bank registered under the Banking Business (Jersey) Law 1991<sup>3</sup>; or
- (c) with the consent of the person to whom the deposit is to be paid, in any other manner (including by means of a debit or credit card or the electronic transfer of funds).
- (3) The deposit paid by a candidate shall be returned to him or her as soon as is practicable if –
- (a) the candidate’s nomination lapses by virtue of Article 18(3); or
- (b) the candidate is taken to have been elected, by virtue of Article 21(1).
- (4) If a candidate dies between the day of his or her nomination and the day fixed for the poll, the deposit paid by the candidate shall be sent to his or her estate as soon as is practicable.
- (5) If a candidate is disqualified between the day of his or her nomination and the day fixed for the poll, the Royal Court, when making an order under Article 23(2), may further order that the candidate’s deposit be returned to the candidate or forfeited.

- (6) If a candidate withdraws before the day fixed for the poll in any case not within paragraph (3), (4) or (5), the candidate's deposit shall be forfeited unless the person who convened the nomination meeting considers it appropriate to return the candidate's deposit to him or her.
- (7) After the election, a candidate's deposit shall be returned to him or her as soon as is practicable if –
  - (a) the candidate is elected; or
  - (b) 5% or more of the persons voting in the election vote for the candidate.
- (8) If a candidate is not elected and less than 5% of the persons voting in the election vote for the candidate, the candidate's deposit shall be forfeited.
- (9) A deposit paid by a candidate in an election for Senators that is forfeited shall be paid into the consolidated fund.
- (10) A deposit paid by a candidate in an election for Deputies or Connétables that is forfeited shall become the income of the parish in which the election takes place.
- (11) The States may by Regulations amend –
  - (a) the amount of the deposit in paragraph (1);
  - (b) the percentages in paragraphs (7)(b) and (8).”.

## **8 Article 22 amended**

For Article 22(3) of the principal Law there shall be substituted the following paragraph –

- “(3) The notice shall give –
  - (a) the office for which the poll is being held;
  - (b) the time, day and place of the poll; and
  - (c) the family names, forenames and addresses of the candidates and any family name or forename which any candidate has declared under Article 20(4CA).”.

## **9 Article 24 amended**

In Article 24 of the principal Law –

- (a) for paragraph (1)(a) there shall be substituted the following subparagraph –
  - “(a) for each candidate, the candidate's family name, forenames and address and, if the candidate has made a declaration under Article 20(4CA), any family name or forename which the candidate has stated in the declaration; and”;
- (b) in paragraph (3A) –
  - (i) after the words “in such form” there shall be inserted the words “and printed on such paper”,

- (ii) after sub-paragraph (a) there shall be inserted the following sub-paragraphs –
  - “(aa) indicate whether the election is for a Connétable, Centenier, Procureur du Bien Public, Senator or Deputy;
  - (ab) indicate the number of votes that an elector may cast in the election;”,
- (iii) the word “and” following sub-paragraph (b) shall be deleted and after that sub-paragraph there shall be inserted the following sub-paragraph –
  - “(ba) if a candidate has made a declaration under Article 20(4CA), show any family name or forename, stated in the declaration, by which the candidate is commonly known; and”.

## 10 Article 26 amended

In Article 26 of the principal Law –

- (a) paragraph (4) shall be deleted;
- (b) for paragraph (5) there shall be substituted the following paragraphs –
  - “(5) Each polling station shall have, for each public election for which a poll is being taken on the day, one or more ballot boxes to receive the votes cast in the poll.
  - (6) A ballot box shall be –
    - (a) marked, in a manner approved by the Comité des Connétables, to indicate the public election for which it is being used; and
    - (b) made according to a model approved by the Comité des Connétables.”.

## 11 Article 32 amended

In Article 32 of the principal Law –

- (a) for paragraph (1) there shall be substituted the following paragraph –
  - “(1) If only one poll for a public election is being taken, the *Autorisé* (or *Adjoint*) in charge of a polling station shall give a ballot paper to each person who satisfies the *Autorisé* (or *Adjoint*) that he or she is entitled to vote there.”;
- (b) in paragraph (2) for the words “The *Autorisé* or *Adjoint* shall –” there shall be substituted the words “An *Autorisé* (or *Adjoint*) who gives a ballot paper to a person pursuant to paragraph (1) shall –”;
- (c) after paragraph (2) there shall be inserted the following paragraphs –
  - “(2A) If more than one poll for a public election is being taken, the *Autorisé* (or *Adjoint*) in charge of a polling station shall –
    - (a) ask a person wishing to vote in which of the polls the person wishes to vote; and

- (b) give the person a ballot paper for each of the polls –
  - (i) in which the person wishes to vote, and
  - (ii) for which the person satisfies the *Autorisé* (or *Adjoint*) that he or she is entitled to vote there.
- (2B) An *Autorisé* (or *Adjoint*) who gives a ballot paper to a person pursuant to paragraph (2A) shall –
  - (a) in the case of a person whose name has been omitted from the register as a result of administrative error, make a note of the person's name on a copy of the electoral register and assign a serial number to the person and record it on the copy of the register;
  - (b) in every case –
    - (i) mark, against the name of the person on a copy of the electoral register, that the ballot paper has been given to the person and the public election for which the ballot paper is to be used,
    - (ii) write on the counterfoil of the ballot paper the electoral number of the person, and
    - (iii) stamp the front of the ballot paper with an official stamp in such form as the States may prescribe by Regulations.”;
- (d) at the end of paragraph (3) there shall be added the words “and, if more than one poll for a public election is being taken, the elections for which the person was given a ballot paper”.

## 12 Article 32A amended

In Article 32A of the principal Law –

- (a) for paragraph (1) there shall be substituted the following paragraph –
  - “(1) This Article applies in the case of an elector to whom a ballot paper has been sent or given by the Judicial Greffier under Article 43.”;
- (b) for paragraph (4) there shall be substituted the following paragraph –
  - “(4) Where the *Autorisé* (or *Adjoint*) permits the elector to vote in accordance with this Article, the *Autorisé* (or *Adjoint*) shall –
    - (a) if only one poll for a public election is being taken, mark off the name of the person on a copy of the electoral register;
    - (b) if more than one poll for a public election is being taken mark, against the name of the person on a copy of the electoral register, the public election in which the *Autorisé* (or *Adjoint*) has permitted the elector to vote.”.

**13 Article 33 amended**

In Article 33(3) of the principal Law after the words “a ballot box” there shall be inserted the words “being used for the public election in which the vote is cast”.

**14 Article 35 amended**

In Article 35(1) of the principal Law after the words “for the taking of his or her vote” there shall be inserted the words “on the day the poll is open”.

**15 Part 7 substituted**

For Part 7 of the principal Law there shall be substituted the following Part –

**“PART 7****VOTING OTHERWISE THAN AT POLLING STATION****37 Interpretation**

- (1) In this Part, unless the context otherwise requires –
  - ‘pre-addressed envelope’ means the pre-addressed envelope sent or given by the Judicial Greffier, in accordance with Article 43, to a person who wishes to postal vote;
  - ‘copy of the register’ means a copy of an electoral register in force for an election that is provided to the Judicial Greffier under Article 41;
  - ‘voter’ means a person entitled to vote at a poll for a public election.
- (2) In this Part, any reference to pre-poll voting is a reference to voting in accordance with Article 42.”

**38 Persons entitled to pre-poll vote**

Every voter is entitled to pre-poll vote in accordance with this Part.

**39 Persons entitled to postal vote**

A voter is entitled to postal vote, in accordance with this Part, if –

- (a) the person is likely to be out of Jersey during the hours of polling; or
- (b) the person’s name and address are omitted from the electoral register under Article 9.

**40 Judicial Greffier to publish notice of arrangements for pre-poll and postal voting**

The Judicial Greffier shall, when a public election has been ordered (not being an election of a Centenier or Procureur du Bien Public), or when a poll becomes necessary in any public election, take such steps as he or she believes are necessary to bring to the attention of the public the arrangements for pre-poll voting at the Judicial Greffe and for postal voting, in particular –

- (a) when the Judicial Greffe shall be open for pre-poll voting and postal voting;
- (b) the closing time for pre-poll voting;
- (c) the closing time for an application to postal vote; and
- (d) the circumstances in which a person is entitled to postal vote.

**41 Judicial Greffier to be provided with ballot papers and copies of registers**

Each person presiding at a nomination meeting shall forward to the Judicial Greffier, for the purposes of this Part –

- (a) a copy of the electoral register in force for the election; and
- (b) a reasonable number of ballot papers, which shall be indistinguishable from the other ballot papers used in the election.

**42 Procedure for pre-poll voting**

- (1) A voter who wishes to vote in a public election by casting his or her vote, before the poll, at the Judicial Greffe shall attend at the Judicial Greffe no later than 2 p.m. on the Monday before the day of the poll (or such other time and day as the States may prescribe by Regulations).
- (2) If only one poll for a public election is being taken in an electoral district, the Judicial Greffier, if satisfied that the person is entitled to vote in that poll, shall give to the person –
  - (a) a ballot paper; and
  - (b) a ballot paper envelope marked with a code for the electoral district in which the person is entitled to vote.
- (3) Upon giving a ballot paper to a person pursuant to paragraph (2), the Judicial Greffier shall –
  - (a) mark off the name of the person on the copy of the register;
  - (b) write on the counterfoil of the ballot paper the electoral number of the person; and
  - (c) stamp the front of the ballot paper with an official stamp in such form as the States may prescribe by Regulations.
- (4) Once the Judicial Greffier has marked off a person's name on the copy of the register, in accordance with paragraph (3), the person is

disqualified from voting in the election except at the Judicial Greffe, in accordance with this Article.

- (5) If more than one poll for a public election is being taken in an electoral district, the Judicial Greffier, if satisfied that the person is entitled to vote in the polls, shall –
  - (a) ask the person in which of the polls the person wishes to vote; and
  - (b) give the person –
    - (i) a ballot paper for each of the polls in which the person wishes to vote, and in which the person satisfies the Judicial Greffier that he or she is entitled to vote, and
    - (ii) a ballot paper envelope marked with a code for the electoral district in which the person is entitled to vote.
- (6) The Judicial Greffier shall, on giving a ballot paper to a person pursuant to paragraph (5) –
  - (a) mark, against the name of the person on the copy of the register, that the ballot paper has been given to the person and the public election for which the ballot paper is to be used;
  - (b) write on the counterfoil of the ballot paper the electoral number of the person; and
  - (c) stamp the front of the ballot paper with an official stamp in such form as the States may prescribe by Regulations.
- (7) Once the Judicial Greffier has, in accordance with paragraph (6), marked against a person's name on the copy of the register, that a ballot paper has been given to the person for use in a public election, the person is disqualified from voting in that election except at the Judicial Greffe, in accordance with this Article.
- (8) If the Judicial Greffier gives a ballot paper to a person whose name has been omitted from the register as a result of administrative error, he or she shall make a note in the return of the fact that the person was allowed to vote and, if more than one poll for a public election is being taken, the elections for which the person was given a ballot paper.
- (9) The voter shall mark and fold a ballot paper as if the voter were voting under Part 6.
- (10) When the voter has recorded his or her vote on the ballot paper or papers, the voter shall immediately place it or them in the ballot paper envelope, seal it and give it to the Judicial Greffier.
- (11) In the case of a person entitled to vote who is ill, disabled or illiterate, the Judicial Greffier shall take such measures as he or she considers appropriate for taking the person's pre-poll vote before the time mentioned in paragraph (1), provided secrecy in voting is maintained.

- (12) Notwithstanding paragraph (1), the measures referred to in paragraph (11) may include a visit to the person for the purpose of the person pre-poll voting at a place other than the Judicial Greffe.
- (13) Article 36 shall apply for the purposes of this Article as if the reference in it to the *Autorisé* or *Adjoint* was a reference to the Judicial Greffier.

#### **43 Application to postal vote**

- (1) A voter who wishes to postal vote in a public election must apply to the Judicial Greffier, before the closing time specified under Article 40(c).
- (2) When the Judicial Greffier receives an application that is properly made under paragraph (1) the Judicial Greffier shall, if satisfied that the applicant is entitled to postal vote –
  - (a) mark against the name of the voter in the copy of the register, that a ballot paper has been sent or given to the voter for each public election in which the voter wishes and is entitled to vote, without marking the number of the ballot paper on the register;
  - (b) stamp the front of a ballot paper with an official stamp, in such form as the States may prescribe by Regulations, being a stamp that also marks on the counterfoil of the ballot paper the code for the voter's electoral district;
  - (c) send or give to the voter –
    - (i) a stamped ballot paper for each public election in which the voter wishes and is entitled to vote,
    - (ii) a ballot paper envelope,
    - (iii) a form of declaration of identity, and
    - (iv) a pre-addressed envelope, addressed to the Judicial Greffier, and marked with the code for the voter's electoral district and a number assigned to the voter.
- (3) Except as permitted by Article 32A, once the Judicial Greffier has marked the copy of the register in accordance with paragraph (2)(a), the voter may only postal vote in the election.

#### **44 Procedure for postal voting**

- (1) To postal vote, a voter shall mark and fold each ballot paper, as if the voter were voting under Part 6, place the ballot paper or papers in the ballot paper envelope provided by the Judicial Greffier and then seal the envelope.
- (2) The voter must also complete the declaration of identity provided by the Judicial Greffier and sign it, in the presence of a witness who shall also sign and state, legibly, his or her name and address.

- (3) 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.
- (4) The voter shall then return to the Judicial Greffier, in the pre-addressed envelope –
  - (a) the ballot paper envelope, containing the ballot paper or papers; and
  - (b) the completed declaration of identity.
- (5) Except as permitted by Article 32A, a postal vote shall be included in the count for a poll only if the pre-addressed envelope is received by Judicial Greffier no later than noon on the day of the poll.
- (6) The Judicial Greffier shall record the number of pre-addressed envelopes that he or she receives in accordance with paragraph (5).

**45 Duty of Judicial Greffier to provide information to *Autorisé* before poll opens**

After the time specified in Article 42(1) and before the poll opens, the Judicial Greffier shall cause to be delivered to each *Autorisé* supervising the poll –

- (a) the copy of the register that relates to the *Autorisé*'s electoral district, as it has been marked by the Judicial Greffier in accordance with this Part; and
- (b) the unused ballot papers and the counterfoils of the used ballot papers, relating to pre-poll and postal voting for that electoral district.

**46 Duty of Judicial Greffier to forward votes to *Autorisé* before poll closes**

Before the poll closes, the Judicial Greffier shall cause to be delivered to each *Autorisé* supervising the poll for an electoral district –

- (a) the ballot paper envelopes for the electoral district, given to the Judicial Greffier in accordance with Article 42, still unopened; and
- (b) the pre-addressed envelopes for the electoral district, received by the Judicial Greffier in accordance with Article 44(5), still unopened.

**46A Duties of *Autorisé* on receipt of pre-poll and postal votes**

- (1) Each *Autorisé* shall ensure that he or she has, for the purposes of the poll, a copy of the register for his or her electoral district on which there has been marked the names of the persons disqualified (subject to Article 32A) from voting at the polling station by virtue of Article 42(4) or (7) or 43(3).

- (2) On receipt of the ballot paper envelopes and pre-addressed envelopes delivered by the Judicial Greffier under Article 46, the *Autorisé* shall count their number and enter their respective totals in the return.
- (3) The *Autorisé* shall, before the close of the poll, open each ballot paper envelope delivered under Article 46(a) and place the ballot paper or papers in the appropriate ballot box.
- (4) The *Autorisé* shall, before the close of the poll, open each pre-addressed envelope and, if satisfied that the declaration of identity is made by the voter to whom the number on the pre-addressed envelope is assigned, and that the declaration has been duly completed –
  - (a) open the ballot paper envelope contained in the pre-addressed envelope and place the ballot paper or papers in the appropriate ballot box; and
  - (b) attach the declaration of identity and the pre-addressed envelope to a copy of the register.
- (5) If not satisfied as described in paragraph (4), the *Autorisé* shall reject the ballot paper or papers by endorsing the ballot paper envelope with the words “VOTE REJECTED” and placing the ballot paper envelope unopened, with the declaration of identity and the pre-addressed envelope, in a package used solely for that purpose.
- (6) Where a pre-addressed envelope, on being opened pursuant to paragraph (4), is found not to contain the declaration of identity, but the *Autorisé* has reasonable grounds for believing that the declaration is in the ballot paper envelope, the *Autorisé* may open the ballot paper envelope and remove the declaration of identity (if there).
- (7) A ballot paper shall not be rejected by reason only that the *Autorisé* has opened the ballot paper envelope pursuant to paragraph (6) and removed the declaration of identity.
- (8) At the conclusion of the voting but before the ballot boxes are opened for the purpose of counting the votes, the *Autorisé* shall seal the package referred to in paragraph (5), and, in a further separate package used solely for the purpose, the *Autorisé* shall seal the documents and copy of the register referred to in paragraph (4)(b).
- (9) The *Autorisé* shall sign each package and indicate on it –
  - (a) the office for which the election is being held;
  - (b) the place and date of the poll;
  - (c) the names of the candidates; and
  - (d) the contents of the package.
- (10) As soon as possible after the election, the *Autorisé* shall forward the 2 sealed packages to the Judicial Greffier.

**46B Name accidentally omitted from electoral register**

- (1) If it appears to the Judicial Greffier that the name of a person attending to pre-poll vote or applying to postal vote is not included in the electoral register for the electoral district specified by the person, the Judicial Greffier shall notify the person accordingly.
- (2) The person may, if he or she believes that his or her name has been omitted from the electoral register as a result of an administrative error, apply to the Judicial Greffier for his or her name to be added to the register, indicating his or her belief that there has been such an omission.
- (3) The Judicial Greffier may –
  - (a) consult the Connétable or another officer of the parish where the electoral district is located before deciding whether the name of the person has been omitted from the electoral register as a result of an administrative error; and
  - (b) refuse the application unless it is supported by such evidence or information as the Judicial Greffier may require by notice served on the applicant.
- (4) If the Judicial Greffier is then satisfied that the name of the person has been omitted from the electoral register as a result of an administrative error, the Judicial Greffier shall –
  - (a) add the name to the copy of the register; and
  - (b) give notice of the addition to the *Autorisé* for the relevant electoral district.
- (5) The *Autorisé* shall –
  - (a) make a note of the person's name on his or her own copy of the electoral register; and
  - (b) assign a serial number for the person and –
    - (i) record it on the copy of the register, and
    - (ii) notify the Judicial Greffier of it.
- (6) The Judicial Greffier shall make a note on the copy of the register of the serial number assigned to the person.

**46C Formalities where person's name is omitted from electoral register under Article 9**

- (1) This Article applies in the case of a person who, by virtue of his or her name and address being omitted from the electoral register under Article 9, may only pre-poll or postal vote.
- (2) Where any provision of this Part requires the Judicial Greffier to make a note against the name of the person in a copy of the register, the Judicial Greffier shall instead make a note against the entry made under Article 9(6)(b) in respect of, and the electoral number for, the person.

- (3) Articles 42 and 43 shall apply as if the references in them to marking off or against the person's name in the copy of the register were references to making the mark in accordance with this Article.
- (4) Notwithstanding Article 46, the Judicial Greffier shall open a pre-addressed envelope received from the person under Article 44 and –
  - (a) if he or she is satisfied as to the matters described in Article 46A(4), 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 46A(5).
- (5) The Judicial Greffier may take the action described in Article 46A(6) where he or she opens a pre-addressed envelope under paragraph (4) of this Article, and a ballot paper shall not be rejected by reason only that he or she has so acted.
- (6) Where the Judicial Greffier delivers a pre-addressed envelope to the *Autorisé* under paragraph (4)(a) –
  - (a) the *Autorisé* shall not be required to satisfy himself or herself as to the matters described in Article 46A(4); and
  - (b) Article 46A(4)(b) shall have effect as if the reference in it to the form of declaration of identity was omitted.
- (7) The Judicial Greffier shall –
  - (a) place the forms of declaration of identity removed under paragraph (4)(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 46A(9).

#### **46D Candidate or representative not to interfere with application to postal vote**

- (1) A candidate, or a representative of a candidate shall not –
  - (a) complete, on behalf of a person entitled to postal vote, or assist such a person in completing, any form required to be completed for the purposes of an application to postal vote; or
  - (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 to postal vote.
- (2) Paragraph (1) shall not prohibit a candidate or representative of a candidate providing a person entitled to postal vote with the form (if any) required to make an application to postal vote.”.

**16 Article A47 inserted**

At the beginning of Part 8 of the principal Law there shall be inserted the following Article –

**“A47 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.”.

**17 Article 49 amended**

In Article 49 of the principal Law after paragraph (2) there shall be inserted the following paragraph –

- “(2A) If the *Autorisé* decides that it is not possible to proceed to the count of the votes in a public election immediately, the *Autorisé* shall –
- (a) ensure that the ballot boxes and packages from the election are kept secure from interference until such time as it is possible to commence the count, in accordance with this Article; and
  - (b) inform the persons entitled under paragraph (3) to be present at the count of the time when the count shall commence.”.

**18 Article 51 amended**

In Article 51 of the principal Law –

- (a) in paragraph (1) for sub-paraphraphs (a) to (d) there shall be substituted the following sub-paraphraphs –
  - (a) if the ballot paper has not been given to a person under Article 32 or 42 or sent or given to a person under Article 43;
  - (b) if it does not bear the stamp referred to in Article 32(2)(c), Article 32(2B)(b), Article 42(3)(c), Article 42(6)(c) or Article 43(2)(b);
  - (c) if it has been cancelled in accordance with Article 36;
  - (d) if it has been rejected under Article 46A(5) (including that provision as applied by Article 46C(4)(b));”;
- (b) in paragraph (1A) after the words “Article 35” there shall be inserted the words “or 42(11)”.

**19 Article 56 amended**

In Article 56(1) for the words “Articles 43A(8) and 46(8)” there shall be substituted the words “Articles 46A(8) and 46C(7)”.

**20 Article 57 amended**

In Article 57(2) of the principal Law for the period “6 months” there shall be substituted the period “12 months”.

**21 Article 62A amended**

In Article 62A of the principal Law for the words “Article 39A(1)” there shall be substituted the words “Article 46D(1)”.

**22 Article 68 amended**

In Article 68 of the principal Law for the words beginning “6 months” to the end of the Article there shall be substituted the words “12 months from the date of the election”.

**23 Citation and commencement**

- (1) This Law may be cited as the Public Elections (Amendment No. 4) (Jersey) Law 201-.
- (2) If this Law is registered on or before 12th August 2011, it shall come into force on the day it is registered.
- (3) If this Law is registered after 12th August 2011, it shall come into force on such day as the States by Act appoint.

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<sup>1</sup> *chapter 16.600*

<sup>2</sup> *chapter 16.800*

<sup>3</sup> *chapter 13.075*