

STATES OF JERSEY



PUBLIC ELECTIONS: AMENDMENTS TO LEGISLATION AND ADMINISTRATION (P.110/2013) – AMENDMENT

**Lodged au Greffe on 23rd October 2013
by the Comité des Connétables**

STATES GREFFE

PUBLIC ELECTIONS: AMENDMENTS TO LEGISLATION AND
ADMINISTRATION (P.110/2013) – AMENDMENT

1 PAGE 2, PARAGRAPH (A)(d)(i) –

After the word “persons” insert “whose names are not on any Electoral Register in force in the Island”.

2 PAGE 2, PARAGRAPH (A)(e) –

- (i) After the words “in the year of a public election,” insert “being a general election for members of the States,”.
- (ii) Substitute for the words “as soon as may be after the statement” the words “not earlier than 1 month after the deadline for the return of the Annual Statement which”.

3 PAGE 3, PARAGRAPH (A)(g) –

- (i) Delete the words “the registered long-term sick or disabled persons and”;
- (ii) For the words “vote by post”, insert the words “vote by pre-poll”.

4 PAGE 3, PARAGRAPH (A)(h) –

Delete the words “an application for”.

5 PAGE 4, PARAGRAPH (C)(g) –

For the word “booths” substitute “stations”.

COMITÉ DES CONNÉTABLES

REPORT

Amendment to (A)(d)(i)

The amendment to paragraph (A)(d)(i) is to bring the proposition into line with Recommendation 7, which is specific to new electors. The Comité des Connétables acknowledges there may be an argument for allowing NEW electors to register up until one week before the election, but does not support allowing a person already registered as an elector to move to a different elector register as this –

- (a) could mean that a proposer/seconded of a candidate is no longer eligible to vote in that election;
- (b) means that the candidates would have a list naming some persons who are no longer eligible to vote in that election;
- (c) will impact on the administration of postal and pre-poll voting (a person might have already voted before requesting the right to move register).

There will be some overlap with (A)(a) which proposes registration prior to becoming eligible in the 3 months prior to the closure of the supplementary register. The date of elections, other than by-elections, is known well in advance, as it is set in legislation.

Amendments to (A)(e)

Note that the proposal for a card is only in the year of an election. However, the Public Election Law applies also to the election of the Procureur du Bien Public and the Centenier. From March 2014, the election dates for the Procureur du Bien Public are harmonised at 18 month intervals with the election dates for Centeniers (these elections are every 9 months). To make it clear that the proposal of a card is not intended in years when there is only an election for Procureur du Bien Public or Centenier, an amendment is also proposed to clarify that a public election means a general election of States members.

The other amendment to paragraph (A)(e) is to clarify that the card is to be sent after occupiers have had the opportunity to complete and return the Annual Statement sent to every unit of dwelling accommodation. The Law currently requires the Annual Statement to be sent out not later than 1st June in every year for return by 1st July of the same year. The Electoral Register is then updated with the information received. Sending the card one month after this deadline (of 1st July) for the return of the statement will ensure that the card includes the most up-to-date information about the persons at that address who are entitled to vote as all information returned should have been entered. That the card arrives during the school summer holidays should not be a disadvantage as the shorter time period proposed between nomination day and election day will mean the nomination meeting is not held until mid-September (with the current autumn elections). There will therefore be time after the end of the school summer holidays for occupiers to respond to the card and to notify the parish of any errors or, if not registered, to apply for registration prior to the Electoral Registers closing. Sending the card too far in advance of the election risks the information becoming out of date as persons move address; or become eligible to have their name included on the register.

The proposition also refers to the card being sent to the householder, but it should be made clear that the Law currently requires the statement to be sent to “every unit of dwelling accommodation” and not to a specific person such as the “householder”.

As these cards are to be sent only when there is a general election of States members, but not in relation to other public elections, the Comité considers the cost should be met by the States and not, as proposed in the report, by the parishes.

Amendment to (A)(g)

In relation to (A)(g), the report proposes that the registered long-term sick or disabled persons should be able to vote by post and that this should be extended to prisoners on remand. The report does not outline how a person is ‘registered’ as long-term sick or disabled.

The Comité would draw attention to the changes made to the Public Elections Law in 2011 when postal voting was restricted to those who are likely to be out of Jersey during the hours of polling. Few reasons are presented by Privileges and Procedures Committee for now reinstating postal voting for other groups less than 3 years after the previous amendments. The reasons given in 2011 are attached at the **Appendix** and include –

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.

The report does refer to the availability of both pre-poll home visits and a visit on polling day to collect votes from those who are elderly, long-term sick or disabled. This option avoids the added complication of having to get out and post a letter to apply for a postal vote (although an online facility is proposed) and to return the postal vote, and without having to find a witness (if this is still required). A home visit also ensures a secret ballot (there is a risk this may not happen with a postal vote) and the Adjoints attending can provide personal assistance if required (as provided in Article 35 of the Law).

The report is silent on the perceived advantages of a postal vote for prisoners on remand when a pre-poll ‘home’ vote collected by the Judicial Greffe is available, straightforward (those voting being confined in one location) and has the added benefit of being a secret ballot without risk of coercion.

The Comité therefore proposes that prisoners on remand should be entitled to a pre-poll ‘home’ vote and that postal voting should not be an option for either prisoners on remand or for the registered long-term sick or disabled persons. To achieve this, the Comité is proposing amendments which, if both are accepted, will permit prisoners on remand to vote by pre-poll and continue to provide a pre-poll option for the registered long-term sick and disabled. However, the amendments split the proposition so that members may make decisions in respect of each of “the registered long-term sick or disabled persons” and of “prisoners on remand”.

Amendment to (A)(h)

The wording of (A)(h) does not tally with Recommendation 26. What seems to be intended is that when a postal vote is returned there should be no need for the voter's identity to be confirmed by a witness. However, the proposition refers to 'an application for a postal vote' whereas no witness declaration of identity is required on this form. The amendment would bring the proposition into line with the Recommendation.

The Comité notes the Recommendation is based on the position in Guernsey where a witness of identity is not required. The disadvantage of postal votes is that they don't guarantee a secret ballot. A Q.C. who presided over an election court has declared the UK Government's introduction of postal voting on demand is "an open invitation to fraud" and the removal of the need for a witness could increase this risk. Whilst the report's authors are confident "*the scope for fraud is very considerably limited*" in Jersey, great care should be taken to ensure changes to the system do not alter this situation. It is for individual members to determine whether the amendment is accepted, but any compromise in the integrity of the voting system will only serve to discourage electors from voting rather than increase the turnout which is the desired result.

Amendment to (C)(g)

The display area in each polling booth is limited, particularly in the newer style flat-pack booths, and the requirement to display a photograph of each candidate is a concern. For example in the 2011 elections, a polling booth in one St. Helier district would have had to display the photographs of 13 candidates for Senator and 8 candidates for Deputy.

The report omits discussion of whether photographs of candidates will assist electors to cast their votes based on the candidates' policies or on how photogenic the candidate is. Is it essential for the information to be displayed in the polling booth? The better option is to display the candidate's photograph, which can include other information such as is sent out to electors by the States Greffe, in the polling station where electors will have a chance to study it before entering a polling booth to vote. This will avoid delays in the polling booths and avoid the risk of allegations of bias as a result of the position in which the candidate's photograph is displayed in the booth.

The policy has been not to permit candidates to display their photographs/election material within 100 yards of a polling station. Should this be varied if photographs and material is displayed inside the polling station?

Other comments:

Preparation of Electoral Register (A)(b)

It is proposed that the parish secretary shall prepare, maintain and amend the electoral register, make the necessary arrangements for the holding of nomination meetings and assist the Autorisé to organise public elections. The reasoning is that a Connétable might "benefit" from the outcome of the election and because the parish secretary already handles the electoral organisation.

The Comité wishes to make the following comments which it hopes will assist members to decide whether or not to adopt this part of the proposition.

The Connétable is the elected head of the civil parish and the affairs of the parish are administered by the officers of the parish under the control of the Connétable. The Connétable has various responsibilities, duties and accountabilities under legislation. Where there is a perceived conflict of interest, the rôle of the Connétable is undertaken by another elected officer (currently the Chef de Police, but the senior Procureur du Bien Public will act once the Connétables (Miscellaneous Provisions) (Jersey) Law 2012 is brought into force). In a few examples the legislation may provide an alternative process.

An example is the issuing of driving licences under the Road Traffic (Jersey) Law 1956. The Law sets out in detail who may and may not be granted a driving licence and for which categories. An application for a licence has to be made to the “parochial authority” which is defined as the Connétable of the parish in which the applicant resides. But the physical processing of the application and issuing of the driving licence is undertaken by parish staff in accordance with the Law. Only in specific circumstances will the Connétable become involved: for example, when a decision is required on the suspension or revocation of a licence on grounds of medical condition or driving ability.

Article 16 of the Public Elections Law requires the Connétable to provide such assistance as the Autorisé may reasonably require, and he or she does this by making the resources of the parish available both in terms of facilities, paid staff and honorary officers and volunteers. Article 20 already makes provision for another officer to preside at a nomination meeting if the Connétable is a candidate in an election. The Connétable is required to decide whether a person’s name and address should be omitted from the electoral register on grounds of a significant risk or threat of personal harm (Article 9) and it may be unreasonable to require the parish secretary to make such a judgment. No mention is made of what provision should be made in the event that the parish secretary chooses to stand for election – there have been 4 known instances of this in the last 14 years.

If change is required it should be framed in such a way to reflect the responsibility of the Connétable to ensure the parish provides facilities required, to prepare and maintain the electoral register, etc., whilst enabling the Connétable to avoid any conflict of interest when a candidate in an election.

Online electoral registration (A)(c)

Online electoral registration – (A)(c) – should be the submission of a request to add a name to the electoral register and not the automatic addition of a name.

Period between nomination day and election day (A)(f)

The Comité would draw attention to the current provisions of the Law in relation to the timescale and the period between nomination day and election day. If the period is to be no more than 4½ weeks, and if polling day remains on a Wednesday, there will be 7 weekdays on which to hold the nomination meeting(s), as the Law requires the nomination meeting to be held not later than 21 days before the polling day. Using the 2014 general election for States members as an example –

Polling day	Wednesday 15th October 2014
Last day in law for nomination meeting	Tuesday 23rd September 2014
Earliest weekday for nomination meeting (using 4½ week interval)	Monday 15th September 2014

The timescale must be realistic to enable the printing and distribution of ballot papers to enable postal and pre-poll voting arrangements. In the recent by-election for Connétable of Grouville, the pre-poll voting period was only 10 days, and this is insufficient for persons who will be on holiday for 2 weeks.

Out-of-town pre-poll voting (A)(i)

In relation to offering pre-poll voting in separate out-of-town locations – (A)(i) – the Comité would point out that, using current systems, it would only be possible for there to be one pre-poll station open at any one time to ensure that an elector did not vote more than once.

Notification of provisional result (A)(j)(iii)

It is proposed that the Autorisé should inform the candidates or their appointed representatives of the provisional result of the count prior to it being formally announced – (A)(j)(iii). It is entirely likely, as happened in 2011, that the result will then be broadcast using social media. It is disappointing that the report accepts this as inevitable, though undesirable, and considers there is no means of preventing it.

'Street order list' (C)(f)

Proposition part (C)(f) refers to the 'street order list', and in Recommendation 11 the words 'walk list' are also used. As stated in the report, the register in street order only lists an address in the street if there is an elector registered at that property. It will not list all addresses in the district. It is interesting to note that the Guernsey lists use address data from the Corporate Address File (CAF), because the Jersey lists are also linked to the Jersey Land and Property Index, which is the CAF. If additional coding is added by the States to the CAF, then improvements may be possible, but the Comité is concerned to note that there are no financial or manpower implications listed for Recommendation 11, nor any indication of who will bear the cost. The Comité proposes the cost is borne by the States, as it provides the CAF.

Names and Addresses used in Electoral Register (D)

The Comité would reiterate the comments made in the report in relation to Recommendation 4 that the Electoral Registers are not just used once every 3 years (maybe 4 years in future) for the election of States members, but they are required and used by parishes on at least a monthly basis, including for Parish and Ecclesiastical Assemblies and the election of officers.

The addresses used in the Electoral Register are the same as those used in the Addresses Register. In conducting a feasibility study on the use of the Names Register, the Sub-Committee is right to want to be satisfied that the latter can accurately log the eligibility of persons to vote.

Financial and manpower implications

It is proposed that the States, rather than the parishes, meet the cost of the card to be sent to every unit of dwelling accommodation, as this relates only to a year in which there is a general election for States members, and does not affect parish elections for the Procureur du Bien Public or Centenier. No cost is given in the report accompanying P.110/2013.

Pre-poll voting for prisoners on remand, rather than postal voting, is likely to be a negligible cost for the Judicial Greffe as it is one visit to collect all votes.

Candidates' photographs in the polling station, rather than each polling booth, will reduce the estimated cost set out in P.110/2013 as the number of photographs required is less.

There will be a cost to improve the CAF which is used for the electoral registers, so as to be able to improve the street order list, but this is not identified in the report.

**DRAFT PUBLIC ELECTIONS (AMENDMENT No. 4) (JERSEY) LAW 201-
(P.14/2011)**

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.