

# STATES OF JERSEY



Jersey

## **DRAFT CONNÉTABLES (AMENDMENT No. 3) (JERSEY) LAW 202-**

---

**Lodged au Greffe on 23rd December 2021  
by the Comité des Connétables  
Earliest date for debate: 8th February 2022**

---

**STATES GREFFE**





Jersey

## **DRAFT CONNÉTABLES (AMENDMENT No. 3) (JERSEY) LAW 202-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Chair of the Comité des Connétables has made the following statement –

In the view of the Chair of the Comité des Connétables, the provisions of the Draft Connétables (Amendment No. 3) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Connétable D.W. Mezbourian of St. Lawrence**  
*Chair, Comité des Connétables*

Dated: 21st December 2021



## REPORT

---

The Comité des Connétables (the “Comité”) brings this draft Amendment for consideration following an issue raised in the judgment in the matter of the “Connétable and the Procureurs du Bien Publique of the Parish of St John ([\[2021\]JRC091](#))”.

Paragraph 99 of the judgment refers to the current legislation which provides that the Connétable remains in office until his or her successor is sworn-in pursuant to Article 1(3) of the [Connétables \(Jersey\) Law 2008](#).

The Comité considered Article 1(3) and has decided that where the Court requires a Connétable to resign, it is not appropriate that the person should remain in office until his or her successor is sworn in. Instead, the resignation should take immediate effect.

The Comité also reviewed the provisions for the resignation of a Connétable in any other circumstance. There have been very few occasions, in living memory, of a Connétable tendering his or her resignation but an example might be on health grounds. The Comité considers that when a Connétable gives written notice to the Bailiff of his or her wish to retire, that resignation should take effect on the Royal Court being notified of the resignation. At this point the Royal Court will also order an election to fill the office of Connétable.

The Comité therefore brings this amendment to the Connétables (Jersey) Law 2008 to provide that where –

- the Court requires a Connétable to resign, this should take immediate effect; and
- where a Connétable chooses to resign, the effective date is when the Royal Court is notified of the resignation.

The [Connétables \(Miscellaneous Provisions\) \(Jersey\) Law 2012](#) sets out the circumstances in which a Connétable’s functions are exercisable by a Procureur du Bien Public. These provisions ensure the Parish continues to function notwithstanding there being a vacancy in the office of Connétable and pending an election to fill that office.

### **Financial and manpower implications**

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

### **Human Rights**

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

**APPENDIX TO REPORT****Human Rights Notes on the Draft Connétables (Amendment No. 3) (Jersey) Law 202-**

These Notes have been prepared in respect of the draft Connétables (Amendment No. 3) (Jersey) Law 202- (the “**draft Law**”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (“**ECHR**”).

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

As Connétables are members of the States Assembly, the election of Connétables engages Article 3 to the First Protocol of the ECHR (“**A3P1**”) which provides that –

*“The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.”*

The law of Jersey already permits a sitting Connétable to cease to hold office before the end of the term for which the individual has been elected, including in some circumstances a direction to resign by the Royal Court.

To the extent that the rights encompassed in A3P1 are engaged in respect of resignation (whether voluntary or Court-directed), there is a legitimate aim in making provision for the resignation to take effect sooner than when a successor has been sworn in to office. The draft Law takes proportionate measures in respect of that aim.

A Connétable who ceases to hold office before a successor is sworn in would not be deprived of earned income by the draft Law, and to the extent that there may be interference with rights under Article 1 to the First Protocol of the ECHR (*protection of property*), such interference would be justified as a proportionate means of achieving a legitimate aim.”

---

## EXPLANATORY NOTE

---

The draft Connétables (Amendment No. 3) (Jersey) Law 202- would, if passed, amend the Connétables (Jersey) Law 2008 (the “2008 Law”) to make provision about the process for, and effective date of, the resignation of a Connétable. It would also make provision about the consequences of a Court-ordered resignation.

*Article 1* provides that the draft Law amends the 2008 Law.

*Article 2* replaces Article 1(3) of the 2008 Law, under which a Connétable who resigns continues to hold office until his or her successor is elected. New paragraphs (3) to (3C) of Article 1 provide that a Connétable may resign by giving written notice to the Bailiff, who must notify the Attorney General of the resignation and give written confirmation to the resigning Connétable that notice has been given. The Attorney General must then notify the Royal Court of the resignation, at which point the resignation takes effect (and there will be a vacancy in the office). *Article 2* also amends Article 1(5) of the 2008 Law (inserted by the Elections (Miscellaneous Amendments) (Jersey) Law 202-) to signpost the new provision about Court-ordered resignation.

*Article 3* inserts a new Article 4CA in the 2008 Law, which applies if the Royal Court directs a Connétable to resign. Paragraphs (2) and (3) of the inserted Article make provision for the time at which the Connétable ceases to hold office in the absence of an earlier resignation. Paragraph (2) provides that if the Connétable appeals against the Court’s decision to direct resignation, the Connétable ceases to hold office upon either the dismissal or abandonment of appeal. Paragraph (3) provides that if the Connétable does not appeal against the decision within the appeal period (defined in paragraph (5)), he or she ceases to hold office on the expiry of that period. But if the Connétable resigns before ceasing to hold office under paragraph (2) or (3), paragraph (4) provides that he or she instead ceases to hold office in accordance with the new Article 1(3C)).

*Article 4* amends Article 4D of the 2008 Law, expressly providing that the new Article 4CA is not to be taken to derogate in any way from the supervisory jurisdiction of the Royal Court in relation to the office of Connétable.

*Article 5* gives the citation of the Law and provides that it comes into force 7 days after it is registered.





Jersey

## DRAFT CONNÉTABLES (AMENDMENT No. 3) (JERSEY) LAW 202-

A LAW to further amend the [Connétables \(Jersey\) Law 2008](#).

---

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

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

### 1 [Connétables \(Jersey\) Law 2008](#) amended

This Law amends the [Connétables \(Jersey\) Law 2008](#).

### 2 Article 1 (term of office of Connétables) amended

- (1) Article 1 is amended as follows.
- (2) For paragraph (3) there is substituted –
  - “(3) A Connétable may, at any time before retiring under paragraph (2), resign by giving written notice to that effect to the Bailiff.
  - (3A) On receipt of a notice of resignation under paragraph (3), the Bailiff must notify the Attorney General of the resignation.
  - (3B) On receipt of a notice under paragraph (3A), the Attorney General must –
    - (a) notify the Royal Court of the Connétable’s resignation; and
    - (b) give written confirmation to the Connétable that the Royal Court has been notified under sub-paragraph (a).
  - (3C) The Connétable ceases to hold office upon the Attorney General notifying the Royal Court of the resignation.”
- (3) At the end of paragraph (5) there is inserted “and Article 4CA makes provision about a Royal Court direction to resign”.

### 3 Article 4CA (effect of direction to resign) inserted

After Article 4C there is inserted –

#### “4CA Effect of direction to resign

- (1) This Article applies if the Royal Court directs a Connétable to resign.
- (2) If the Connétable appeals against the Court’s decision to direct resignation, the Connétable ceases to hold office upon either –
  - (a) the dismissal of the appeal; or
  - (b) the abandonment of the appeal.
- (3) If the Connétable does not appeal against the Court’s decision within the appeal period, the Connétable ceases to hold office on the expiry of that period.
- (4) But if, before ceasing to hold office in accordance with paragraph (2) or (3), the Connétable resigns in accordance with Article 1(3), the Connétable ceases to hold office in accordance with Article 1(3C).
- (5) For the purposes of paragraph (3), the “appeal period” means the period within which a notice of appeal must be served in accordance with rules made under Article 19 of the [Court of Appeal \(Jersey\) Law 1961](#).”

### 4 Article 4D (supervisory jurisdiction of the Royal Court) amended

In Article 4D, for “or 4C” there is substituted “, 4C or 4CA”.

### 5 Citation and commencement

This Law may be cited as the Connétables (Amendment No. 3) (Jersey) Law 202- and comes into force 7 days after it is registered.