

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY SENATOR S.Y. MÉZEC
QUESTION SUBMITTED ON MONDAY 15th FEBRUARY 2021
ANSWER TO BE TABLED ON MONDAY 22nd FEBRUARY 2021**

Question

Will H.M. Attorney General advise whether the provisions of the Powers of Attorney (Jersey) Law 1995 allow for an individual to attend and vote at a Parish Assembly on behalf of those who have signed over power of attorney to them on that basis; and if so, does this enable one person to vote multiple times on behalf of a number of Parishioners?

Answer

Voting at Parish Assemblies in such ways would not be lawful for the following reasons.

Article 7(1) of the Powers of Attorney (Jersey) Law 1995 (the “1995 Law”) provides that a general power of attorney shall confer on the donee (i.e. the recipient) authority to do on behalf of the donor anything the donor can lawfully do by an attorney. However, the 1995 Law does not provide a list of what may or may not be lawfully done by an attorney.

The laws governing Parish Assemblies and voting rights therefore determine what may lawfully be done by an attorney in this context. I have identified no evidence of voting by attorney being permitted at customary law, nor any statute making provision for it. Rather, two statutory provisions confirm the view that such votes would not be valid.

Firstly, Article 23 of the Rates (Jersey) Law 2005 provides in respect of Parish Assemblies that each member of the Assembly has one vote on any decision by the Assembly and that this applies regardless of whether a member is qualified more than once to be a member of the Parish Assembly.

Secondly, the *Loi (1804) au sujet des assemblées paroissiales* (the “Loi 1804”) sets out procedural requirements for Parish Assemblies but says nothing of powers of attorney. On the contrary, Article 12 of the Loi 1804 provides:

A toute Assemblée Paroissiale, dûment convoquée et tenue, le Président sera tenu de mettre en délibération chaque motion faite par un membre, et secondée par un autre membre de l'Assemblée, et de recueillir les opinions sur le sujet

[At any Parish Assembly, duly convened and held, the President shall be required to put for debate each motion proposed by a member and seconded by another member of the Assembly, and to elicit opinions on the subject concerned]

It follows that the vote must be of those present at the Assembly and must come after having heard a debate amongst those present. To allow voting by power of attorney would be to record votes in respect of members of the Assembly who were not present to hear the debate contrary to the scheme of the Loi 1804.