

JERSEY LAW COMMISSION



Jersey

CONSULTATION PAPER

PARISH ASSEMBLIES: A BETTER LEGISLATIVE FRAMEWORK

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This includes in particular: the elimination of anomalies; the repeal of obsolete and unnecessary enactments; the reductions of the number of separate enactments; and generally the simplification and modernisation of the law. Members of the Law Commission serve on a part-time basis and are unremunerated.

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EXECUTIVE SUMMARY

The twelve parishes of Jersey date back many hundreds of years. At the head of each parish in civil matters is the Connétable. At the head of each parish in ecclesiastical (church) matters is the Rector.

The parish has always been at the heart of Island life. Its engine room is the parish assembly consisting of the whole electorate of the parish. The assembly –

- sets the rates payable by owners and occupiers of land;
- elects various officers of the parish;
- votes on liquor licence applications;
- names roads;
- authorises contracts entered into by the parish.

Whilst the parish assembly is not strictly in law a general debating forum, it tends to be a focal point for debate at local level of public interest matters affecting the parish. This presents logistical challenges on occasions when many hundreds of members of the parish electorate want to attend a parish hall able to accommodate only limited numbers.

The challenges have been not only physical ones of accommodation, but also legal ones. Does the law enable virtual attendance? Does it enable voting by proxy or a postal vote? Can legally binding polls or referenda of any sort be conducted? There are also calls to address the special needs of St Helier as Jersey's capital. The Laws (*Lois*) governing parish assemblies are mainly in French dating back to 1804, and earlier, and need to be read in the light of the Royal Court's power to supervise officers of the parish. These laws and customs are much cherished as a part of Jersey's legal heritage, but they do not always provide clear answers to many procedural questions to which modern conditions give rise. They can be amended of course, but the amendments would also be in French, and would require Royal sanction. At the same time there is little appetite to sweep away the existing laws and customs and replace them wholesale with English type legislation.

What is to be done? The Commission has been exploring a possible legal framework which would enable reforms to be enacted more easily, in the English language, but without needing a wholesale repeal and replacement of existing laws and customs. This Consultation Paper asks for comment on a tentative draft Law to enable the States to enact Regulations, without the need for Royal Assent, on all matters governing parish assemblies and parish administration. Under the draft Law, Regulations could also (under certain conditions) allow for the Comité des Connétables to make Orders governing more minor matters of procedure and for a parish assembly to make by-laws where necessary to suit the individual needs of the parish concerned. The power of the States to make Regulations would include the power to amend any of the existing Laws/*Lois*.

The Consultation Paper goes into greater detail, of course, about the existing legal framework, and the rationale behind each clause of the proposed enabling Law.

1 The purpose of this Consultation Paper

- 1.1 This Paper is concerned with the legal framework governing parish assemblies in Jersey. It will touch on areas of possible reform to encourage wider attendance and voting and keep parish assemblies at the heart of community life in Jersey. This Paper will –
- review the present legislative structure governing parish assemblies, and
 - invite comment on a proposal for a new framework of enabling and subordinate legislation.
- 1.2 There will be emphasis as well on the position of St Helier, which houses Jersey's capital, and on how the suggested legislative framework could make for more flexibility in meeting the different needs of individual parishes.
- 1.3 The proposal will not seek to uproot fundamental concepts of the parish and of parish assemblies. The purpose is to explore a means by which a clearer statutory framework can be constructed, without destroying the Island's legal heritage in this respect, but at the same time enabling any agreed reforms to be enacted more easily and quickly.
- 1.4 This Paper will not be concerned with the body of law governing the Honorary Police. The laws on operational policing are separate from the laws governing the civil administration of the parishes. That said, one of the core functions of the parish assembly (*see 3.1.1. below*) is to elect the parish quota of honorary police officers.

2 Parish assemblies: the basics

- 2.1 Jersey is divided into 12 parishes *viz.*



- 2.2 Each parish is divided into *vingtaines*, except St Ouen which is divided into *cueillettes*. The parishes and their subdivisions are of ancient origin.¹
- 2.3 The parish assembly (*l'assemblée paroissiale*) is the body through which each parish makes its decisions. The parish itself is a legal entity separate from that of its parishioners.²
- 2.4 Originally membership of the parish assembly was restricted to owners and occupiers of land of a certain value (ratepayers), but in 1975 a Law was passed so that anyone able to vote in a public election, whether or not a ratepayer, automatically became a member of the parish assembly.³
- 2.5 Additionally, any States Deputy whose electoral district covers the relevant parish may attend a parish assembly, even if they are not an elector of the parish, but they may not vote.⁴
- 2.6 The Connétable presides over the assembly;⁵ but when the assembly considers ecclesiastical matters the Rector presides.⁶ In other words there is only one parish assembly: but a different person presides depending on the subject matter under discussion.
- 2.7 The functions of the parish assembly are particular functions which have been conferred on it over many years by law. The assembly is not in legal terms a general debating forum; and neither the Connétable nor the Rector is legally bound to convene an assembly to consider a matter that does not fall within any of the given functions of the assembly. In practice, however, assemblies are convened from time to time to consider matters of public interest.
- 2.8 Article 9 of the [Loi \(1804\) au sujet des assemblées paroissiales](#) is important because it governs how an assembly is convened. It says (in translation):

The president of a parish assembly [i.e. the Connétable or the Rector] must convene an assembly within a fortnight after being requested to do so by 10 or more principals⁷ of the parish, provided that the request is made to

¹ René Lemasurier, *Le droit de l'île de Jersey: la loi, la coutume et l'idéologie dans l'île de Jersey*, page 53, refers to the formation of the 12 parishes between the 8th and the 12th Centuries and suggests that the boundaries of the *vingtaines* were established towards the end of the 12th Century. See also [Jersey Law Review | Le Connétable et sa paroisse](#) (at para 1)

² Parish of St. Helier v Manning 1982 JJ 183.

³ [Parish Rate \(Administration\) \(Amendment No. 3\) \(Jersey\) Law 1975](#): see now Article 23 of the [Rates \(Jersey\) Law 2005](#). A company that pays rate can designate a person to act as its representative: see Article 29 of the [Rates \(Jersey\) Law 2005](#)

⁴ [Loi \(1804\) au sujet des assemblées paroissiales](#) Article 3

⁵ [Loi \(1905\) au sujet des assemblées paroissiales](#) [translated [Loi \(1905\) au sujet des assemblées paroissiales](#)]

⁶ [Loi \(1804\) au sujet des assemblées paroissiales](#) Article 8 provides (in translation) that "... ecclesiastical matters are as follows: choosing officers of the Church, and the examination and approval of their accounts; the distribution extraordinaire; repair of the Church, of the Cemetery, and of the Presbytery, the disposition of Church pews, and of property attaching to the Rectorate; the sale of Rentes of church property ('Trésor'), for the poor ('Charité') and other property belonging to the Trésor or la Charité, and the choice of Lecteur, of Fossoyeur (grave digger), and of the School Minister, for presentation to the Dean".

⁷ "Principal" now means to all intents and purposes anyone entitled to vote at a parish assembly in accordance with Article 23 of the [Rates \(Jersey\) Law 2005](#)

him or her in writing, is dated, and mentions the subject for which the convening of the assembly is sought.

2.9 A request made by parishioners under Article 9 is referred to as a ‘requête’ (the French word having endured in everyday usage).

2.10 By way of further reading –

- **Annex 1** reproduces the guide – “[The Parish Assembly](#)” – published by the Comité des Connétables.
- **Annex 2** reproduces the legal analysis of Article 9 of the [Loi \(1804\) au sujet des assemblées paroissiales](#) contained in the Report in Proposition [P.173-2014.pdf](#).

3 Parish assemblies: their core functions

3.1 Election of parish officers

3.1.1 Honorary police officers: The basic historical function of the parish is to keep the peace (*garder la paix de Sa Majesté*). Each parish is under a legal obligation to maintain a set number of serving centeniers, vingteniers and constable’s officers (*officiers du connétable*). The parish may be fined by the Royal Court if it fails to do so.

Whilst centeniers are elected through the procedure of a public election under the [Elections \(Jersey\) Law 2002](#), vingteniers and constable’s officers are elected directly by a vote at the parish assembly (*élus en assemblée paroissiale par les habitants de la paroisse*⁸).

3.1.2 Rates assessment committee: The parish must levy an annual parish rate; and the parish assembly has to elect members of a committee to assess each area of land in the parish.⁹ [See further **3.2 below**.]

3.1.3 Roads committee & roads inspectors: The parish assembly must appoint members of the roads committee (*comité des chemins*). It must also appoint 2 roads inspectors (*inspecteurs du travail des chemins*) for each vingtaine. [See further **3.3 below**.]

3.1.4 Registrar and deputy registrar(s):¹⁰ The Connétable is responsible for appointing the registrar and deputy registrar(s) but must notify the parish assembly in advance of doing so. These officers are responsible for maintaining the registers of births, marriages, civil partnerships and deaths in the Parish. Note however that where there is no registrar or deputy registrar, the functions may be discharged by the Superintendent Registrar under an effective delegating power.¹¹

⁸ [Loi \(1853\) au sujet des centeniers et officiers de police](#) Article 3 [translated [Loi \(1853\) au sujet des centeniers et officiers de police](#)]

⁹ [Rates \(Jersey\) Law 2005](#) Article 32

¹⁰ [Marriage and Civil Status \(Jersey\) Law 2001](#) Article 42

¹¹ *Ibid.* Article 42(8) “In a case where there is no registrar or deputy registrar in a parish, the Superintendent Registrar, a registrar or a deputy registrar of a different parish or an employee of the parish, may, with the

- 3.1.5 Church officers (Churchwardens and Almoners): Article 8 of the [Loi \(1804\) au sujet des assemblées paroissiales](#) refers (in translation) to “*choosing officers of the Church ...*”. In turn the [Canons of the Church of England in Jersey \(“the Canons”\)](#) define the “*Church Officers*” as “*the churchwardens (surveillants) and almoners (collecteurs d’aumônes) ... of ... an Ancient Parish Church*”. “*Ancient Parish*” is defined as “*one of the twelve historic parishes of Jersey*”.

Under Section D1.1(1) of the Canons, each Parish must elect two churchwardens at an Ecclesiastical Assembly held prior to 31 May in each year. They must apply the revenues of the “*Trésor*” of the Church to the repairs, maintenance and needs of the Church, Churchyard and rectory. Except with the approval of the Parish Assembly and the Dean, they may not give orders for anything more than ordinary repairs or renewals (Section D1.6(1)). They must present to the Ecclesiastical Assembly before 31 May in each year a set of accounts in respect of the “*Trésor*” and “*Charité*” accounts (Section D1.6(2)).

Churchwardens may be dismissed by a resolution of the Ecclesiastical Assembly (Section D1.3).

Section D2 of the Canons requires each Parish to elect not less than two almoners at an Ecclesiastical Assembly held prior to 31 May in each year. The almoners must give assistance to the churchwardens and fulfil their other functions and duties under Jersey law and custom.

3.2 Rates

- 3.2.1 As we have seen, the parish must levy rates. The parish assembly sets the parish rate each year. This rate is payable by the owners and occupiers of land in the parish. The proceeds of the rate are applied in the payment of the general expenses of the parish.
- 3.2.2 Before setting the rate for the year, the parish assembly approves the accounts for the previous financial year and the estimates for the coming year. The rate set must produce sufficient income for the parish to meet the approved estimates.¹²

3.3 Highways

- 3.3.1 The parish used to be responsible for all roads within its boundaries.
- 3.3.2 The position today in relation to roads and improvements is that main roads (*grandes routes*) are overseen by the Infrastructure Minister, and by-roads (*chemins vicinaux*) are overseen by the parishes. Each parish must establish a roads committee (*comité des chemins*) and roads inspectors (*inspecteurs du travail des chemins*), two for each vingtaine,¹³ are

consent of the Connétable and whether or not he or she resides in the parish, act in the capacity of the registrar or deputy registrar of the parish.”

¹² See the guide published by the [Comité des Connétables](#). Note that the separate Island-wide Rate is collected by the parish and paid to the States Treasury.

¹³ or cueillette in St Ouen

appointed by the parish assembly.¹⁴ The assembly is held in December and those elected enter into office on 1 January.¹⁵

3.3.3 The roads committee is consulted where an application for planning permission affects a by-road in the parish.¹⁶

3.4 Liquor licensing

3.4.1 The parish assembly votes on liquor licensing applications in the parish prior to each application being finally determined by the Licensing Assembly.¹⁷

3.5 Ecclesiastical, charitable, parish relief etc.

3.5.1 An assembly presided over by the Rector is concerned (as we have seen) with electing officers of the Church and it also examines and approves their accounts. It is also concerned with the repair of the Church, of the Cemetery, and of the Presbytery etc.

3.5.2 Parishes are involved in a broader sense with many local charities, but do not administer them as such.

3.5.3 The parish no longer has a formal role in the administration of relief to the poor. Article 20 of the [Income Support \(Jersey\) Law 2007](#) abolished the “obligations of a Parish to meet the costs of the relief and maintenance of persons chargeable to the Parish who are suffering as a result of financial hardship...” and established a centrally administered welfare scheme overseen by the Social Security Department.

3.6 Common agenda examples

3.6.1 Items on an agenda for a meeting of an assembly convened by the Connétable might read like this:

An assembly of the principals and electors of the parish of will be held at the parish hall on the ... day of 202- at 7.00pm to conduct the following business:

- (i) to receive and approve the minutes of the parish assembly held on the 202-*
- (ii) to elect 1 Vingtenier for the Vingtaine de*
- (iii) to elect 1 Officier du Connétable for the Vingtaine de ...*
- (iv) in accordance with Article 32 of the Rates (Jersey) Law 2005, to elect one person to be a member of the Assessment Committee to serve a three-year period ending 31 December 202-.*

¹⁴ [Loi \(1914\) sur la Voirie](#) Articles 1 – 5 [translated [Loi \(1914\) sur La Voirie](#)]

¹⁵ See the guide published by the [Comité des Connétables](#).

¹⁶ [Planning and Building \(Jersey\) Law 2002](#) Article 14

¹⁷ [Licensing \(Jersey\) Law 1974](#) Article 5

“The Royal Court is a court of inherent jurisdiction. For centuries, the Connétables, as with many other parish officials, have taken their oath of office before the Royal Court ... [and] that promise to the Court carries with it an obligation to the Court, which is part of the justification, with the court’s inherent jurisdiction, for the disciplinary power exercised by the Court over those in honorary service in the parishes.... Indeed, the court’s supervisory jurisdiction can be seen from the Visites Royales ... where the whole parochial administration is reviewed...”.

- 4.3 The judgment went on to affirm that the court’s jurisdiction over the municipality of the parishes had been “undeniably established” and noted that: “to this day, all members of the Honorary Police as well as members of the parish municipality appear in court in person, generally on a Friday, to take their oaths of office. Such ceremonies are usually attended not only by members of the officer’s family and friends but also by representatives of the parish, confirming those links between the parishes and the court. They affect hundreds of people directly and many more indirectly. They form part of the traditional fabric of the Island.”
- 4.4 This observation of the court reflected the sense of identity that Jersey people have long had with their parish. The parish always signified more than just local administration: it signified, and still does to many, one’s identity and roots. To hold parochial office is to fulfil the age-old duty to serve one’s parish. The population traditionally were steeped in the customs and workings of their own parish institutions. This is still true in some degree today, more so in the rural parishes.
- 4.5 It follows from the nature of the Royal Court’s role that recourse is had to the court to oversee the actions of parish officers in relation to parish assemblies. There are many instances down the years (indeed centuries) of the court having given directions to a parish as to an issue concerning the parish assembly.
- 4.6 The court will normally be seized of its supervisory jurisdiction by the Attorney General bringing a representation. Should a representation be brought by a parishioner concerning proceedings at his or her parish assembly, the Attorney General will as a matter of course be convened.
- 4.7 The central role of the court can and does operate helpfully to clarify areas of uncertainty. These historical legacies – of the guiding hand of the Royal Court when needed and of local familiarity with parish institutions – have no doubt militated against moves towards codification or reform of the laws governing parish assemblies and related parish administration.
- 4.8 At all events there has been a dearth of legislative activity; and the result is an absence from the statute book of enabling provisions for subordinate legislation, be it Regulations made by the States¹⁹ or Orders or by-laws of any sort able to be made by the Comité des Connétables²⁰ or other suitable body dealing with the everyday workings of parish assemblies. The current statutory framework rests mainly upon primary legislation (largely in French) concerned sometimes with basic procedural detail, with amendments (still in French) having to be sanctioned on each occasion by His Majesty in Council.

¹⁹ Subject to minor exceptions mentioned later

²⁰ Noting of course that the Comité has consistently provided guidance on the everyday workings of parish assemblies by way of its online booklets (*see 2.10 above*)

5 Parish assemblies: the modern challenges ('public interest' meetings)

- 5.1 The parish has been described as *the seat of civil affairs and community life* in Jersey.²¹ As noted in 2.7 above, the parish assembly is not in purely legal terms a general debating forum although in practice assemblies are convened from time to time to consider matters of public interest. It may not be clear in each case whether the subject matter for which an assembly has been convened actually falls within the core functions of a formal parish assembly, or not.
- 5.2 The Working Party on Parish Assemblies in 2001²² saw this aspect in the following light. It noted that the functions of parish assemblies “[had] evolved throughout the centuries ...” and observed that: “*The evolutionary process will undoubtedly continue. The Working Party has not identified a need for specific reform in terms of increasing or diminishing the role and responsibilities of the parish assembly. It does not consider that the role of parish assemblies should be extended to matters beyond those specifically relating to the administration of the parish.*” The Working Party noted that meetings had been held in parish halls to debate matters of local interest, for example, Les Landes Race Course and Pontins Holiday Camp Site in St. Ouen; but it did not consider that a statutory framework was required for such informal proceedings which – it felt – ought not to be confused with the formal business of parish assemblies.
- 5.3 These observations were made more than 20 years ago. Public interest meetings are convened in practice and in recent years have attracted large numbers of parishioners, whether such meetings technically have fallen within formal business of a parish assembly or not. The reality is that whereas the routine business of an assembly (election of parish officers, approving the parish rate, considering liquor licence applications *etc.*) will normally attract only a handful of parishioners, a matter of wider interest could potentially attract a substantial part of the whole parish electorate. As the current law requires the physical attendance of parishioners to participate and vote, there have been increasing logistical challenges in holding some parish assemblies and growing concern about parishioners who may wish to speak and vote but who for one reason or another find it difficult to attend in person.
- 5.4 A recent example was the decision on the site of the new General Hospital on which strong views were held by many St Helier residents. An electorate of some 18,000 residents of St Helier was eligible to attend. In cases such as this, the reality is that – whether in St Helier or in another parish on an issue of widespread concern – in the absence of an alternative to physical attendance of members and voting in person, a meaningful assembly on a contested issue may become practical impossibility.
- 5.5 Practical steps can be taken when a high attendance is expected, as seen in St Lawrence and Grouville. In February 2018 a Parish Assembly was held in St Lawrence to discuss the provision of disabled facilities at the Parish Church and, to accommodate all those attending, facilities were arranged at both the Parish Hall and the school such that all those attending could hear, participate in and vote. In March 2022, special arrangements were also made for a Parish Assembly held in Grouville to consider a requête on the Island Bridging Plan proposals.

²¹ Michel Monteil, *L'Émigration Française vers Jersey 1850-1950*, Université de Provence, 2005 (translation 2015 by Glyn S. Burgess and Rory A. D. Hill), page 21

²² Under the chairmanship of Deputy Harry Baudains (together with Jurat M. Rumfitt, Senator C.G.P. Lakeman, Deputy K. Syvret, Connétable K. Le Brun of St. Mary, Centenier E. Gallichan of St. Helier and Mr. G. MacRae Procureur du Bien Public – St. Brelade)

5.6 Apart from the obvious challenge of accommodating large numbers of people, there is also a disproportionately adverse effect on persons such as working parents and guardians, those with disabilities and the elderly, for whom attendance in person may be difficult in any event. This can be just as true of an assembly convened for routine business as it is of an assembly convened to consider a matter of wider public interest.

5.7 If the parish is to thrive in the 21st Century as *the seat of civil affairs and community life*, it would seem axiomatic that there be the fullest possible participation by electors in the parish assembly and clarity about its procedures. It is questionable whether the approach of the 2001 Working Party – of trusting to evolution rather than legislation to achieve this objective – is any longer a realistic one.

5.8 As we shall now see, the Comité des Connétables has in recent years embraced the need for legislation to address at least some of the current concerns.

6 Options for reform?

6.1 On 2nd September 2019 a Proposition [\[P.92/2019\]](#) was lodged by the (then) Senator Sam Mézec inviting the States Assembly to agree that: *“appropriate amendments should be made to the legislation governing parish assemblies to provide –*

- (a) that proxy voting should be permissible in parish assemblies;*
- (b) that a minimum of 10 parishioners may (by serving written notice to the Connétable at least one week before the scheduled date of the parish assembly) require additional time to be provided for voting on a proposition at a parish assembly, with votes cast at the parish assembly on that proposition supplemented by votes cast in the parish hall on the day after the parish assembly, in order to enable an increased number of parishioners to vote on the most significant propositions; and*
- (c) to request the Comité des Connétables to bring forward the legislation necessary to give effect to these changes.”*

6.2 In the event P.92/2019 was withdrawn, and there has since been discussion with the Comité des Connétables about possible amendments to the relevant laws so that, for public interest matters at least, persons unable to attend or remain at an assembly may be able to vote by other means. Among the options discussed have been –

- the appointment of a proxy, representative or attorney
- parish referenda
- availability of a ballot box prior to assembly meetings
- postal voting
- remote access to attend and participate.

6.3 Misgivings have been expressed that such options as proxy and postal voting, or referenda, take insufficient account of the need for parishioners to hear arguments for and against proposals in open debate before voting, and indeed might even operate to discourage attendance in person and live debate generally at parish assemblies. It has also been noted that some of these options could put

administrative hurdles in the way of the parish in terms of verifying that those persons voting are in fact electors of the parish and eligible to participate in debate before the assembly. Views have equally been expressed that such concerns could be managed effectively by modern means of communication made available as one of a selection of means of participating in the assembly. Hence if an individual wished to hear arguments for and against, they would be able to participate in person or by some form of remote communication e.g. telephone, zoom and if they did not wish to then they could return a ballot or appoint a proxy.

Consultation question 1:

Do you agree that there is a need for legislative intervention (in any form) to facilitate wider participation at parish assemblies other than in person e.g. by telephone or Zoom or similar?

6.4 If there is to be legislative intervention, it will ultimately be for the States Assembly to strike a balance between achieving on the one hand the widest possible involvement in voting by electors on issues before the parish assembly, and ensuring on the other hand that voting takes place on the basis of properly and fully informed debate, and that the administrative machinery of the parish is not put under excessive strain.

6.5 As regards virtual attendance, the Attorney General has advised the Comité des Connétables from time to time, and more recently in light of the restrictions brought about by the Covid Pandemic, as to when and how presence by remote access may be compatible with customary law and statute. The precise position in this regard is not clear, however, from a reading of the current legislation. Clarity on the legal position governing detailed matters of procedure often depends more upon legal advice given from time to time by the Law Officers' Department than upon a simple reading of the statute book. The advice given is invaluable, but the need to seek advice is often the result of having to rely on laws dating from bygone times.

6.6 The Comité des Connétables have recently prepared a Law Drafting brief to include provision for –

- a statutory right to attend virtually, but not to vote, at a parish assembly;
- voting by ballot at the discretion of the president of the assembly (other than when electing officers, setting parish rates and recommending liquor licensing applications)

6.7 No draft amending legislation has yet been brought forward though it should be recognised that, the task of amending the current body of legislation is likely to be formidable.

7 The existing laws

7.1 In this section we look at the current, rather disparate, body of legislation.

7.2 As we have seen, the parishes and, in turn, parish assemblies have their origins in ancient custom. They are still, in legal language, creatures of customary law (the *coutume*). The customary law base has however been supplemented by statute consisting of –

- the [Loi \(1804\) au sujet des assemblées paroissiales](#) (“Loi of 1804”)
- the [Loi \(1842\) sur les publications dans les Eglises](#) (“Loi of 1842”)

- the [Loi \(1905\) au sujet des assemblées paroissiales](#) (“**Loi of 1905**”)
- the [Loi \(1914\) sur la Voirie](#) (“**Voirie Law**”)
- the [Naming of Streets and Numbering of Premises \(Jersey\) Law 1960](#) (“**Naming of Streets Law**”)
- the [Official Publications \(Jersey\) Law 1960](#) (“**Official Publications Law**”)
- the [Licensing \(Jersey\) Law 1974](#) (“**Licensing Law**”)
- the [Rates \(Jersey\) Law 2005 \(Article 23\)](#) (“**Rates Law**”)

7.3 The Loi of 1804 is the principal, partly codifying, statute which contains provisions about voting rights, and about when and how an assembly is convened and the procedures to be followed at the actual meeting:

Articles 1, 2 and 3 set out rights of audience of certain office holders and of States Deputies. (Articles 4, 5, 6 and 7 no longer exist.)

Article 8 sets out the matters which rank as ecclesiastical (and over which the Rector presides rather than the Connétable).

Article 9 sets out the procedure and time limits for convening an assembly when requested in writing by at least 10 electors stating the subject (*sujet*) for which the assembly is sought.

Article 10 requires the convening notice to state the subject (*sujet*) for which the assembly has been convened. No other matter may be dealt with unless it relates to public safety (*sureté publique*).

Article 11 stipulates that no assembly shall be held on the same day as the convening notice is published or on the following day unless it relates to public safety (*sureté publique*).

Article 12 requires the President²³ to submit for discussion each motion proposed by a member and seconded by another member of the Assembly (*mettre en délibération chaque motion faite*).

Article 12A requires the President to produce to the Assembly the convening notice, duly authenticated, and in putting each separate item for debate to follow the order laid down in the convening notice.

Article 13 relates to the policing powers of vingteniers and is not relevant for present purposes (and is likely redundant at all events).

Article 14 relates to certain customary law rights of the Seigneurs of the fiefs of St. Ouen, Rozel, Samarès and Trinity (which are likely also redundant).

²³ *i.e.* the Connétable or the Rector, depending on whether or not the subject matter falls within Article 8

7.4 The Loi of 1842 and the Official Publications Law are concerned with the giving of public notice of parish assemblies. The official notice must be placed in the Parish box (*boîte grillée*) in the Parish cemetery.

7.5 The Loi of 1905 sets out the clear divide between the Rector on the one hand who convenes and presides at an assembly *pour les affaires ecclésiastiques*,²⁴ and the Connétable on the other hand who convenes and presides at an assembly *pour les autres affaires*, with each being required to notify the other in advance of the convening of an assembly. The Loi of 1905 (read with the Official Publications Law) also requires notice of an Assembly to be given in the Jersey Gazette at least two days before holding the Assembly, although it is not clear whether these must be working days. In practice, according to the Comité des Connétables, “*at least several days’ notice is given of an Assembly and publicity may also be given using other media including the Parish website*” (see the Booklet published by the Comité <https://comite.je/wp-content/uploads/sites/13/2021/11/THE-PARISH-ASSEMBLY-amended-August-2018-1.pdf> at paragraph 6.2).

7.6 The Voirie Law (insofar as it relates to parish assemblies) makes several requirements of the *assemblée paroissiale* as regards appointing roads inspectors, and as regards appointing members and funding of the roads committee (see **3.3 above**).

7.7 The Naming of Streets Law enables the parish assembly to assign a name to any street, whether or not in substitution for an existing name, and stipulates the procedure for doing so.

7.8 The Licensing Law (insofar as it relates to parish assemblies) is concerned with the consideration by the parish assembly of applications for liquor licences (see **3.4 above**).

7.9 Article 23 of the Rates Law sets out the qualifications for membership of, and voting at, the parish assembly; and Article 29 of the Rates Law provides for a body corporate who is liable to rate to nominate a person to act as its representative known as its *mandataire* (see **3.2 above**).

8 Enabling Law as a path to reform?

8.1 Respecting the traditional base

8.1.1 As said at the outset, there are no proposals to reform fundamental concepts of the parish and of parish assemblies. A wholesale replacement of the body of law referred to in **7. above** is not proposed; nor is reform of the underlying rules of customary law which apply to parish assemblies (including the supervisory jurisdiction of the Royal Court) to give way to a wholly statutory régime.

Consultation question 2:

Do you agree that the existing customary law on parish assemblies (including the supervisory jurisdiction of the Royal Court) ought not to be replaced in its entirety by a new Law?

²⁴ In respect of which *see* Article 8 of the Loi of 1804

- 8.1.2 On the other hand, if there is not to be an entirely new statute, it would seem impracticable at best to try to graft provision (in French) onto the Loi of 1804 to deal with such changes as remote access, and to attempt to make other consequential amendments to the relevant Lois/Laws. How, therefore, are these conflicting considerations to be reconciled if reforming legislation of any sort is ever to see the light of day?

8.2 A “Parish Assemblies (Enabling Provisions) (Jersey) Law 202-”

The principal proposal for reform is a widely drawn enabling Law – such as a “Parish Assemblies (Enabling Provisions) (Jersey) Law 202-” (**PAJL**). There is already clear precedent for such an approach.

8.3 Precedent for an Enabling Law

- 8.3.1 Under the Voirie Law and the Licensing Law, the States are empowered to amend the Law in question by Regulations; in the case of the Voirie Law, under Article 47 of that Law; and, in the case of the Licensing Law, under Article 93 of that Law. The result is that –

- in relation to the Voirie Law, the States effectively may already make provision by Regulations as to the functions and powers of the *Assemblée Paroissiale* as regards parish roads, and
- in relation to the Licensing Law, the States effectively may already make provision by Regulations as regards the role of the parish assembly in relation to liquor licences.

- 8.3.2 Such Regulation-making powers stem originally –

- in the case of the Voirie Law, from the [Loi \(1851\) autorisant l'établissement des règlements sur la police des chemins](#) (“**1851 Law**”) which empowered the States by Regulations “*to substitute from time to time to the provisions now in force relating to the police of the public roads Regulations to be carried into execution without the Sanction of Her Majesty in Council*”;
- in the case of the Licensing Law, from the [Loi \(1833\) sur la conduite des taverniers](#) (“**1833 Law**”) which empowered the States to enact Regulations [in translation] *to make such changes as the circumstances require to the regulations concerning the conduct of Taverners, the sale of wines and liquors and the grant of licences.*

- 8.3.3 It is under these Laws that Jersey has long legislated without the need for Royal Assent over the broad range of road traffic and liquor licensing laws.

- 8.3.4 The PAJL would serve the same purpose in relation to the law governing parish assemblies as the 1851 Law and the 1833 Law serve in relation to the laws governing road traffic and licensing respectively.

- 8.3.5 Furthermore, in the same way as –

- the 1851 Law is read along with the specific vires in the various Road Traffic/Highways/Voirie Laws to amend those Laws by Regulations, and

- the 1833 Law is read along with specific vires in the Licensing Law to amend that Law by Regulations,

so the PAJL would include provision to similar effect to the Loi of 1804, the Loi of 1842, the Loi of 1905, the Voirie Law, the Naming of Streets Law and the Rates Law enabling the States to amend the Loi/Law in question by Regulations in furtherance of the enabling powers in the new Law.

8.3.6 The PAJL would also go further by enabling Regulations to provide for further delegated powers in the form of –

- Orders made by the Comité des Connétables²⁵ (with the concurrence of the Attorney General) to govern more minor matters of procedure at parish assemblies; and
- by-laws made by a parish assembly (with the concurrence of the Attorney General and the Comité des Connétables) to suit the individual needs of a given parish.

8.3.7 The requirement for the Attorney General to concur in the making of (i) an Order by the Comité des Connétables or of (ii) by-laws by a parish assembly would reflect the fact that Orders and by-laws, albeit relating to the more minor matters of procedure, would concern basic democratic rights of citizens to participate in parish matters. Requiring the Attorney General's concurrence would be consistent with [The Role Of The Attorney General As Partie Publique In Civil Cases](#) and [The Role Of Attorney General As Titular Head Of Jersey's Honorary Police](#).²⁶

8.3.8 The States could then by Regulations make whatever overall (additional) provision is needed in relation to parish assemblies and related matters with legislative ease (similar to road traffic and liquor licensing).

Consultation question 3:

Do you agree with the States being given wide-ranging powers to legislate for parish assemblies by Regulations?

Consultation question 4:

Do you agree that the Comité des Connétables should be able to make Orders that provide for the more minor matters of procedure at parish assemblies?

Consultation question 5:

Do you agree that the parish assembly, with the concurrence of the Comité des Connétables, should be able to make by-laws for matters of minor detail suiting the needs of that parish?

²⁵ *i.e.* an Order tabled in the States in the same way as an Order made by a Minister (the Comité des Connétables already has Order making powers *e.g.* under Article 4 of the [Dogs \(Jersey\) Law 1961](#))

²⁶ the links are to articles in the Jersey and Guernsey Law Review by Robert MacRae, QC

Consultation question 6:

Do you agree in the case of

- Orders made by the Comité des Connétables and
- by-laws made by the parish,

that the Attorney General should need to give prior clearance?

Consultation question 7:

If you agree in principle with each of the matters in questions 3, 4, 5 and 6, does the suggested draft Law in **ANNEX 3** achieve the relevant aims satisfactorily? If not, please indicate how you think the draft Law should be amended.

9 The St Helier dimension – special needs

9.1 St Helier houses Jersey's capital, but strictly in law it is a parish like any other, subject only to certain special provisions concerning e.g. the composition of its roads committee²⁷ and of its rates assessment committee²⁸. The logistical challenges of a parish assembly with a membership of some 18,000 electors have already been referred to in **5. above**.

9.2 In recent years, St Helier has given much thought to modifying its structure of civil administration with delegated powers. This is in an attempt to provide more timely and efficient decision making for matters affecting St Helier and its residents and businesses.

9.3 In 2019, a working group was set up. It consisted of the members of the roads committee and Procureurs du Bien Public; a representative of the Parish Deputies; and a representative of the Comité des Connétables – to establish how the administration of the parish could be adapted to meet the needs of parishioners more efficiently and effectively.

9.4 At the heart of initiatives being considered is a proposal that the roads committee be developed into a body known as a 'conseil'. It is suggested that this would be an elected body, comprising approximately 13 members, including the two Procureurs du Bien Public and the Connétable, who would chair the conseil. Indeed, the Parish Assembly agreed to establish a 'shadow conseil' (on a non-statutory basis) for 2020.

9.5 In terms of its broader goals, the working group has identified areas where delivery of the Parish's objectives would be enhanced by the transfer of administrative responsibility to some degree from the Government of Jersey to the Parish. These areas include –

- planning: building including housing and transport (being able to influence and shape policy, as a formal consultee, and make local planning decisions within Island-wide plans, parameters and policies)
- increased road, sea-beach and parks management powers (including the ability to make local by-laws)

²⁷ See Article 3 [Loi \(1914\) sur la Voirie](https://www.jerseylaw.je/laws/translated/Pages/25.950.aspx) (<https://www.jerseylaw.je/laws/translated/Pages/25.950.aspx>)

²⁸ See Articles 31(2) & 32(2) Rates (Jersey Law 2005 (<https://www.jerseylaw.je/laws/current/Pages/24.950.aspx>))

- environment (formally contributing towards policy development and having authority to enforce compliance)
- a more direct responsibility for liquor licensing decisions and subsequent enforcement
- ‘town vibrancy’ (powers to promote and enable activities and events in town year-round)

9.6 The proposals are expressed as being subject to the strict proviso that the conseil would not override the ultimate decision-making role of the parish assembly.

9.7 Again no detailed thought has yet been given to the legislative structure needed to implement these proposed changes. At all events it will be for the States Assembly in due course to determine the precise extent of the reforms to be enacted.

10 The St Helier dimension – a path to reform?

10.1 The proposed ‘conseil’ would have a statutory identity and roles in the areas just mentioned in **9. above** viz. –

- planning: building including housing and transport (potentially bringing into play elements of the [Planning and Building \(Jersey\) Law 2002](#), the [Control of Housing and Work \(Jersey\) Law 2012](#), the [Motor Traffic \(Jersey\) Law 1935](#) and the [Road Traffic \(Jersey\) Law 1956](#))
- roads, sea-beach and parks management powers (potentially bringing into play elements of the [Loi \(1914\) sur la Voirie](#), the [Motor Traffic \(Jersey\) Law 1935](#), the [Road Traffic \(Jersey\) Law 1956](#), the [Highways \(Jersey\) Law 1956](#), the [Policing of Roads, Parks and Sea Beaches \(Application of Fines\) \(Jersey\) Law 1957](#), the [Policing of Roads \(Jersey\) Regulations 1959](#), the [Roads Administration \(Jersey\) Law 1960](#) and the [Policing of Parks \(Jersey\) Regulations 2005](#))
- environment (potentially bringing into play elements of the [Planning and Building \(Jersey\) Law 2002](#))
- liquor licensing (potentially bringing into play elements of the [Licensing \(Jersey\) Law 1974](#))
- ‘town vibrancy’ (potentially bringing into play elements of the [Licensing \(Jersey\) Law 1974](#), the [Shops \(Regulation of Opening and Deliveries\) \(Jersey\) Law 2010](#) and the [Road Works and Events \(Jersey\) Law 2016](#))

10.2 Otherwise, as concerns the interrelationship between the conseil and the parish assembly, the existing Laws listed under **7. above** are pertinent to this heading of the St Helier dimension as they are to the more general Island-wide issues. As with legislating for those wider issues, it would seem impracticable to seek to legislate for the St Helier dimension by direct amendment of the current primary legislation (that is to say, the Laws listed under **7. above** as well as those referred to in **10.1 above**).

10.3 Instead, the proposal is to enact broadly drafted provisions in the PAJL for Regulations to be made by the States. The rationale for this approach would be the same as that set out in **8. above** which it is unnecessary to restate here.

Consultation question 8:

Is a broadly drafted enabling Law the best path to reform where St Helier is concerned? In your view, are there alternative ways of approaching possible reforms in relation to St Helier?

10.4 In similar vein to **8.3.5** and **8.3.6** above provision would be included in the *vires* so that the Regulations would be able to –

- amend relevant primary legislation consequentially; and
- provide for further delegated powers to be exercised by way of by-laws made at parish level (in concurrence with the Attorney General and the Comité des Connétables).

11 The St Helier dimension – possible use to other parishes?

11.1 Importantly the scope of suggested enabling powers referred to in **10.** above would not need to be confined to St Helier, although referred to for the purpose of this Paper as addressing ‘the St Helier dimension’.

11.2 The enabling powers could be of general application so that Regulations made under such powers might, if ever it were needed, address the needs of another parish in appropriate circumstances.

Consultation question 9:

If the States are to be given wide-ranging powers to legislate for parish assemblies by Regulations (see Consultation question 3) should this be for parishes generally and or one or more specific parishes, depending on their different needs?

Consultation question 10:

If you agree in principle with each of the matters in questions 8 and 9, does the suggested draft Law in **ANNEX 3** achieve the relevant aims satisfactorily? If not, please indicate how you think the draft Law should be amended.

12 Suggested draft “Parish Assemblies (Enabling Provisions) (Jersey) Law 202-” (PAJL)

Suggested wording for the PAJL is contained in **Annex 3** to this Paper

Concluding consultation question:

Apart from any of the above questions, are there any other observations that you wish to make regarding the subject matter of this Consultation?

In particular, please provide examples of areas where reform is needed in parish assemblies and representation/attendance thereat?

13 Overall questions for consultation

The Questions for consultation are listed together in **Annex 4** to this Paper

ANNEX 1

GUIDE TO THE PARISH ASSEMBLY PUBLISHED BY THE COMITE DES CONNETABLES

[*N.B.* The Guide also supplies this link to a fuller explanation of the workings of Parish Assemblies:

<https://comite.je/wp-content/uploads/sites/13/2021/11/THE-PARISH-ASSEMBLY-amended-August-2018-1.pdf>]

L'Assemblée d'Pâraisse

The Parish Assembly, known as the “Assembly of Principals and Officers of the Parish”, considers civil and ecclesiastical matters within its remit.

- The Rector presides over an Assembly to deal with the ecclesiastical affairs of the Parish (commonly called the Ecclesiastical Assembly).
- The Connétable presides when the Assembly deals with all other Parish affairs (commonly called the Parish Assembly).

Membership and Voting rights at a Parish Assembly

A member of the Parish Assembly has one vote on any decision by the Assembly despite the fact that the member may be qualified more than once to be a member of the Parish Assembly.

A person is a member of the Parish Assembly if:

- the person resides in the Parish and is registered for the Parish as an elector in public elections.
- the person is a ratepayer for the relevant year – either as owner or occupier of property.
- a Deputy of the States who represents the parish, or a constituency of the parish, has the right (if not otherwise eligible as a member) to attend, but not to vote, in the Parish Assembly.

The functions of the Parish Assembly are:

- The election of officers.
- The care of the roads.
- The promotion of local improvements (new roads or drains, the removal of nuisances, etc.).
- The levying of rates in accordance with the Rates (Jersey) Law 2005.
- Consideration of licensing applications under the Licensing (Jersey) Law 1974.

The functions of the Ecclesiastical Assembly include:

- the choice of officers of the Church,
- the examination and approval of their accounts;
- repair of the Church, of the Cemetery, and of the Presbytery etc.

Procedure for Meetings of the Parish Assembly

The President of the Parish Assembly will convene an Assembly when there is business for the Assembly to conduct. The official notice must be placed in the Parish box (*boîte grillée*) in the Parish cemetery. Notice must also be given in the Jersey Gazette at least two days before holding the Assembly.

The convening notice must state the business to be discussed. No other business may be discussed except matters relating to public safety and the care of the poor.

The President of the Assembly must produce the convening notice to the Assembly and follow the order for debate as set out in the notice. The President is required to put every matter proposed and seconded to discussion and to the vote. A vote is usually taken by show of hands and, if necessary, scrutineers will be appointed to count the votes. There is no provision for proxy or postal votes to be received. Minutes of the meeting are kept and will usually be confirmed at the following Assembly.

The President is required to convene an Assembly within two weeks of receiving a request to do so from ten or more members of the Assembly. The request must be made in writing, dated, and must state the subject for which the Assembly is to be convened. The subject must include a resolution that is within the competence of the Assembly to consider and upon which it may properly vote.

The role of the Parish Assembly does not extend to matters beyond those specifically relating to the administration of the Parish. On occasions meetings are held in Parish Halls to debate matters of local interest; these are informal proceedings and must not be confused with the formal business of the Parish Assembly.

ANNEX 2

THE REPORT ACCOMPANYING THE DRAFT LOI (201-) (AMENDEMENT) AU SUJET DES ASSEMBLÉES PAROISSIALES *Lodged au Greffe on 9th December 2014 by the Comité des Connétables*

REPORT

- 1 Article 9 of the *Loi (1804) au sujet des assemblées paroissiales* (“Article 9”) governs the procedure for convening a Parish Assembly, whether secular or ecclesiastical. The Connétable is President of the secular Assembly whilst the Rector is the President of the Ecclesiastical Assembly.
- 2 Briefly stated, Article 9 requires the Connétable or the Rector, as the case may be, to convene an Assembly within 8 days of receiving a request to do so from 4 or more members (‘principals’) of the Assembly. The request must be made in writing, dated, and must state the subject for which the Assembly is to be convened.
- 3 The text of Article 9 (in translation) is as follows –

“Each President of a Parish Assembly² shall be required to convene an Assembly within the 8 days of having been requested to do so by 4 or more principals of the Parish, provided that the request is made to the President in writing, is dated, and mentions the subject for which the convening of the Assembly is sought; and provided also that the request is received by the President no later than Wednesday in any week, in order that there is time to convene an Assembly in the course of the following week.”
- 4 The draft Law would replace Article 9. The new Article 9 would provide that, in relation to the convening of a Parish Assembly by the Connétable (again in translation) –

“The President of a Parish Assembly shall be required to convene an Assembly within a fortnight³ after being requested to do so by 10 or more principals⁴ of the Parish, provided that the request is made to him or her in writing, is dated, and mentions the subject for which the convening of the Assembly is sought.”
- 5 The effect of the amendment would therefore be –
 - (a) to increase the notice period for convening a Parish Assembly from a minimum of 1 week to a minimum of a fortnight;
 - (b) to increase the minimum number of principals⁵ who must request the Parish Assembly from 4 to 10.
- 6 It will be helpful to clarify the legal effect of Article 9 (based on the advice of the Attorney General). Certain basic requirements have to be met for an Assembly to be able to be convened.

- *The subject ('sujet') put forward must be a lawful one*
- 7 This fundamental requirement is affirmed by the case of *Renouf et au -v- Cabot, Connétable* (1934) 238 Ex 44.
- *There needs to be a proposition*
- 8 Whilst Article 9 mentions merely the need for a subject ('sujet'), this has to be read in conjunction with Article 12 of the principal Law which requires the President to submit for discussion each motion put – *mettre en délibération chaque motion faite* – which clearly infers that a proposition needs to be put to the Assembly.
- 9 Moreover the *Loi* (1815) sur l'ordre de procédure aux assemblées paroissiales requires the President to produce the convening notice (*billet de convocation*) to the Assembly and, on the deliberations of the different items ('*des différents objets*'), to follow the order set out in the convening notice. The requirement that there should be an *objet* infers also a resolution or proposition.
- *The proposition must relate to a matter within the competence of a Parish Assembly.*
- 10 The *Assemblée Paroissiale* has a range of functions at customary law and in statute. The more routine of the statutory functions now arise under the Rates (Jersey) Law 2005, the Licensing (Jersey) Law 1974 and the *Loi* (1914) sur la Voirie.
- 11 The Working Party on Parish Assemblies in 2001 noted that the traditional functions of the Parish Assembly had been stated in the 19th Century to be –
- i. the care of the roads;
 - ii. the promotion of local improvements (new roads or drains, the removal of nuisances, etc.);
 - iii. the administration generally of local charities;
 - iv. the making of rates;
 - v. the administration concurrently with the Constable of relief to the poor,
- but that some of these functions had given way to new statutory régimes: “..., in relation to charities, whilst Parishes undoubtedly continue to have much involvement, it can no longer be said that they have the function, in a formal sense, of administering local charities. An important addition, however, to the original list of functions is the consideration by the Assembly of licensing applications under the Licensing (Jersey) Law 1974...”. Of course, since 2001, (iii) above – *Parish Relief* – has been largely subsumed into the administrative apparatus of a centralised social security scheme.
- 12 The 2001 Working Party did consider what it termed as public interest meetings. It noted that the functions of Parish Assemblies “[had] evolved throughout the centuries notably in relation to policing and matters relating to charities. The evolutionary process will undoubtedly continue. The Working Party has not identified a need for specific reform in terms of increasing or diminishing the role and responsibilities of the Parish Assembly. It does not consider that the role of Parish Assemblies should be extended to matters beyond those specifically relating to the administration of the Parish. The Working Party observed that on occasions meetings were held in Parish Halls to debate matters of local interest, for example, *Les Landes Race Course* and

Pontins Holiday Camp Site in St. Ouen; but it did not consider that a statutory framework was required for such informal proceedings which ought not to be confused with the formal business of Parish Assemblies.”

- 13 This is worthy of note in relation to Article 9. A Connétable – or a Rector – of a Parish is bound to convene an Assembly only for a matter that is within the ordinary competence of the Assembly in the first place. On receipt of a request to convene an Assembly to debate a matter not within its customary or statutory competence, the Connétable or the Rector, as the case may be, would not be bound to convene an Assembly for that purpose alone. Moreover, the Code of Laws of 1771, in relation to the lodging of Propositions ‘au Greffe’, provides that the purpose of the delay before the States debate is “*in order that every individual of the States may have full time to consider thereof, and the Connétables to consult their Constituents if they judge necessary*”.
- 14 Hence it is a matter of discretion for the Connétable to consult as he or she sees fit: and each Connétable is a representative of the Parish and not its delegate. Thus matters before the States Assembly are not automatically matters within the competence of an *Assemblée Paroissiale* in respect of which the requisite number of principals can require the Connétable to convene a formal meeting in accordance with Article 9. As the 2001 Working Party contemplated, however, that need not prevent the Connétable from acquiescing as he or she sees fit in arrangements for some other form of public meeting or consultation.
- 15 The Dean and Rectors of the Ancient Parishes have been consulted and none has objected to the amendments which, if approved, will apply to both the Ecclesiastical Assembly and to the Parish Assembly. The amendments, though minor, are considered by the Comité des Connétables to be a practical necessity to ensure a reasonable level of interest in the issue to be considered and that the meeting may be arranged within a reasonable timescale.

ANNEX 3
A TENTATIVE DRAFT



Jersey

PARISH ASSEMBLIES (ENABLING PROVISIONS) (JERSEY) LAW
202-

A **LAW** to enable the States to make Regulations in respect of parish assemblies and parish administration.

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of His 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 His Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

In this Law –

“functions” includes powers;

“officers” means officers of the parish;

“parish administration” means the civil administration of the parishes;

“parish assemblies” means each of the *assemblées paroissiales* of the parishes, whether under the presidency of the Connétable or of the Rector;

“parishes” means the twelve parishes of Jersey.

2 Parish Assemblies

- (1) The States may make provision by Regulations in respect of parish assemblies.
- (2) Provision under paragraph (1) may include (but is not limited to) provision as to –
 - (a) membership and functions of parish assemblies;
 - (b) procedures and voting rights at parish assemblies; and
 - (c) functions of officers in relation to parish assemblies.

3 Parish Administration

- (1) The States may make provision by Regulations in respect of parish administration.
- (2) Provision under paragraph (1) may include (but is not limited to) provision as to –
 - (a) the transfer of administrative functions from a Minister to the parishes;
 - (b) the formation of bodies to discharge administrative functions.

4 Application to one or more Parishes

Regulations under this Law may be made in relation to the parishes generally or in relation to one or more of the parishes.

5 Further delegated powers

Regulations under this Law may –

- (a) enable the Comité des Connétables, with the concurrence of the Attorney General, to make Orders in relation to matters of procedure at parish assemblies for which provision has not been made in the Regulations;
- (b) enable the making of by-laws by a parish assembly, with the concurrence of the Attorney General and the Comité des Connétables, for any purpose set out in the Regulations.

6 Amendment of Laws

The Laws listed in the Schedule are amended as set out in the Schedule in order that the States may by Regulations amend²⁹ any provision of those Laws consequentially upon the making of Regulations under this Law.

7 Citation and commencement

This Law may be cited as the Parish Assemblies (Enabling Provisions) (Jersey) Law 202- and comes into force [7 days after it is registered].

²⁹ Note the definition of “amend” in the Schedule to the Interpretation (Jersey) Law 1954: “*amend*” shall include “*add to*”, “*substitute*”, “*vary*”, “*repeal*” and “*revoke*”

SCHEDULE
LAWS AMENDED
(Article 6)

1. [Loi \(1804\) au sujet des assemblées paroissiales](#)

After Article 14 insert –

“Article 15

Les pouvoirs conférés aux États par la Loi dite ‘Parish Assemblies (Enabling Provisions) (Jersey) Law 202-’ de faire des Règlements relatifs aux assemblées paroissiales et à l’administration paroissiale comprennent un pouvoir d’apporter des modifications aux dispositions de la présente Loi à ces fins.”.

2. [Loi \(1842\) sur les publications dans les Eglises](#)

After Article 9 insert –

“10

Les pouvoirs conférés aux États par la Loi dite ‘Parish Assemblies (Enabling Provisions) (Jersey) Law 202-’ de faire des Règlements relatifs aux assemblées paroissiales et à l’administration paroissiale comprennent un pouvoir d’apporter des modifications aux dispositions de la présente Loi à ces fins.”.

3. [Loi \(1905\) au sujet des assemblées paroissiales](#)

At the end of the Article Unique add –

“Les pouvoirs conférés aux États par la Loi dite ‘Parish Assemblies (Enabling Provisions) (Jersey) Law 202-’ de faire des Règlements relatifs aux assemblées paroissiales et à l’administration paroissiale comprennent un pouvoir d’apporter des modifications aux dispositions de la présente Loi à ces fins.”.

4. [Loi \(1914\) sur la Voirie](#)

For Article 47 substitute –

“47

Les pouvoirs conférés aux États par –

(a) l’Ordre en Conseil du 26 décembre 1851 de faire des Règlements relatifs à la police des chemins publics; et

(b) la Loi dite ‘Parish Assemblies (Enabling Provisions) (Jersey) Law 202-’ de faire des Règlements relatifs aux assemblées paroissiales et à l’administration paroissiale,

comprennent un pouvoir d’apporter des modifications aux dispositions de la présente Loi à ces fins.”.

5. [Motor Traffic \(Jersey\) Law 1935](#)

After Article 46 insert –

“46A Amendment by Regulations

The powers conferred on the States by the Parish Assemblies (Enabling Provisions) (Jersey) Law 202- to make Regulations relating to parish assemblies and parish administration include a power to amend the provisions of this Law for those purposes.”.

6. [Highways \(Jersey\) Law 1956](#)

For Article 8A substitute –

“8A Amendment by Regulations

The powers conferred on the States by –

- (a) the Order in Council of 26th December 1851 to make Regulations relating to the police of the public roads; and
- (b) the Parish Assemblies (Enabling Provisions) (Jersey) Law 202- to make Regulations relating to parish assemblies and parish administration, include a power to amend the provisions of this Law for those purposes.”.

7. [Road Traffic \(Jersey\) Law 1956](#)

In Article 92 add –

“(3) The powers conferred on the States by the Parish Assemblies (Enabling Provisions) (Jersey) Law 202- to make Regulations relating to parish assemblies and parish administration include a power to amend the provisions of this Law for those purposes.”.

8. [Naming of Streets and Numbering of Premises \(Jersey\) Law 1960](#)

After Article 7 insert –

“7A Amendment by Regulations

The powers conferred on the States by the Parish Assemblies (Enabling Provisions) (Jersey) Law 202- to make Regulations relating to parish assemblies and parish administration include a power to amend the provisions of this Law for those purposes.”.

9. [Official Publications \(Jersey\) Law 1960](#)

After Article 4 insert –

“4A Amendment by Regulations

The powers conferred on the States by the Parish Assemblies (Enabling Provisions) (Jersey) Law 202- to make Regulations relating to parish assemblies and parish administration include a power to amend the provisions of this Law for those purposes.”.

10. [Roads Administration \(Jersey\) Law 1960](#)

After Article 7 insert –

“7A Amendment by Regulations

The powers conferred on the States by the Parish Assemblies (Enabling Provisions) (Jersey) Law 202- to make Regulations relating to parish assemblies and parish administration include a power to amend the provisions of this Law for those purposes.”.

11. [Licensing \(Jersey\) Law 1974](#)

For Article 93 substitute –

“93 Power of the States to amend the Law

The powers conferred on the States by –

- (a) the Order in Council of 6th March 1833 to make Regulations relating to the conduct of taverners, the sale of wines and liquors and the grant of licences; and

(b) the Parish Assemblies (Enabling Provisions) (Jersey) Law 202- to make Regulations relating to parish assemblies and parish administration, include a power to amend the provisions of this Law for those purposes.”.

12. [Elections \(Jersey\) Law 2002](#)

After Article 72(2) insert –

“(3) The powers conferred on the States by the Parish Assemblies (Enabling Provisions) (Jersey) Law 202- to make Regulations relating to parish assemblies and parish administration include a power to amend the provisions of this Law for those purposes.”.

13. [Planning and Building \(Jersey\) Law 2002](#)

(1) In the heading to Part 11 after “TRANSITIONAL” insert “AND OTHER”.

(2) After Article 130 insert –

“130A Amendment by Regulations

The powers conferred on the States by the Parish Assemblies (Enabling Provisions) (Jersey) Law 202- to make Regulations relating to parish assemblies and parish administration include a power to amend the provisions of this Law for those purposes.”.

14. [Rates \(Jersey\) Law 2005](#)

After Article 54 insert –

“54A Amendment by Regulations

The powers conferred on the States by the Parish Assemblies (Enabling Provisions) (Jersey) Law 202- to make Regulations relating to parish assemblies and parish administration include a power to amend the provisions of this Law for those purposes.”.

15. [Shops \(Regulation of Opening and Deliveries\) \(Jersey\) Law 2010](#)

After Article 10 insert –

“10A Amendment by Regulations

The powers conferred on the States by the Parish Assemblies (Enabling Provisions) (Jersey) Law 202- to make Regulations relating to parish assemblies and parish administration include a power to amend the provisions of this Law for those purposes.”.

16. [Control of Housing and Work \(Jersey\) Law 2012](#)

After Article 51 insert –

“51A Amendment by Regulations

The powers conferred on the States by the Parish Assemblies (Enabling Provisions) (Jersey) Law 202- to make Regulations relating to parish assemblies and parish administration include a power to amend the provisions of this Law for those purposes.”.

17. [Road Works and Events \(Jersey\) Law 2016](#)

After Article 69 insert –

“69A Amendment by Regulations

The powers conferred on the States by the Parish Assemblies (Enabling Provisions) (Jersey) Law 202- to make Regulations relating to parish assemblies and parish administration include a power to amend the provisions of this Law for those purposes.”.

ANNEX 4

FULL LIST OF QUESTIONS FOR CONSULTATION

Consultation question 1:

Do you agree that there is a need for legislative intervention (in any form) to facilitate wider participation at parish assemblies other than in person e.g. by telephone or Zoom or similar?

Consultation question 2:

Do you agree that the existing customary law on parish assemblies (including the supervisory jurisdiction of the Royal Court) ought not to be replaced in its entirety by a new Law?

Consultation question 3:

Do you agree with the States being given wide-ranging powers to legislate for parish assemblies by Regulations?

Consultation question 4:

Do you agree that the Comité des Connétables should be able to make Orders that provide for the more minor matters of procedure at parish assemblies?

Consultation question 5:

Do you agree that the parish assembly, with the concurrence of the Comité des Connétables, should be able to make by-laws for matters of minor detail suiting the needs of that parish?

Consultation question 6:

Do you agree in the case of -

- Orders made by the Comité des Connétables and
- by-laws made by the parish,

that the Attorney General should need to give prior clearance?

Consultation question 7:

If you agree in principle with each of the matters in questions 3, 4, 5 and 6, does the suggested draft Law in **ANNEX 3** achieve the relevant aims satisfactorily? If not, please indicate how you think the draft Law should be amended.

Consultation question 8:

Do you see a widely drawn enabling Law as the best path to eventual reform where the particular needs of St Helier are concerned? In your view, are there alternative ways of approaching possible reforms in relation to St Helier?

Consultation question 9:

If the States are to be given wide-ranging powers to legislate for parish assemblies by Regulations (see *Consultation question 3*) should this be for parishes generally and or one or more specific parishes, depending on their different needs?

Consultation question 10:

If you agree in principle with each of the matters in questions 8 and 9, does the suggested draft Law in **ANNEX 3** achieve the relevant aims satisfactorily? If not, please indicate how you think the draft Law should be amended.

Concluding consultation question:

Apart from any of the above questions, are there any other observations that you wish to make regarding the subject matter of this Consultation?

In particular, please provide examples of areas where reform is needed in parish assemblies and representation/attendance thereat?