

STATES OF JERSEY

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DRAFT STATES OF JERSEY (POWERS, PRIVILEGES AND IMMUNITIES) (SCRUTINY PANELS, PAC AND PPC) (JERSEY) REGULATIONS 200- (P.15/2006): AMENDMENT

**Lodged au Greffe on 21st March 2006
by the Privileges and Procedures Committee**

STATES GREFFE

DRAFT STATES OF JERSEY (POWERS, PRIVILEGES AND IMMUNITIES) (SCRUTINY PANELS, PAC
AND PPC) (JERSEY) REGULATIONS 200- (P.15/2006): AMENDMENT

PAGE 17, REGULATION 6 –

Delete sub-paragraph 6(1)(a) and renumber the remaining sub-paragraphs accordingly.

PRIVILEGES AND PROCEDURES COMMITTEE

Note: This amendment is effectively a minor consequential amendment arising from the Committee's decision that Regulation 3 should be removed from the draft Regulations for the reasons given below. No formal written amendment is required to remove Regulation 3 as the Chairman will simply not propose it when the Regulations are debated by the States.

REPORT

Since lodging the draft Regulations concerning the powers, privileges and immunities of scrutiny panels, the PAC and the PPC on 21st February 2006, the PPC has received representations from members involved in scrutiny concerning a possible problem with the Regulations as lodged.

Regulation 3 of the draft Regulations contains a restriction on when the powers conferred by the Regulations can be exercised. Although there is no particular problem identified in relation to Regulation 3(2) which refers to the Public Accounts Committee, there is a possible difficulty arising from the current wording of Regulation 3(1) in relation to scrutiny panels. As worded, the paragraph links the ability of scrutiny panels to exercise their powers to work undertaken pursuant to the topics assigned to the panel by Standing Orders. Standing Orders set out the topics assigned to the four panels (corporate services, economic affairs, social affairs and environment) but it is accepted that certain reviews undertaken by the panels will inevitably straddle more than one topic area, even if the panels will choose topics that are broadly within the overall topic area. There is understandable concern among members working in scrutiny that a very strict interpretation of Regulation 3 could mean that a request for relevant information for a review was challenged on the grounds that the matter was not within the precise topic assigned to the panel by Standing Orders.

Although it is clear that scrutiny panels must not use the power to summons inappropriately it is essential that they are not restricted in their ability to find relevant information for their reviews. Having considered the matter the PPC has concluded that the appropriate way forward is to remove Regulation 3 from the draft Regulations and, as a result, this Regulation will not be proposed when the Regulations are considered in Second Reading by the Assembly. The Committee is satisfied that there are adequate safeguards remaining in the Regulations to avoid any risk that a scrutiny panel or the PAC might issue a summons inappropriately.

The first safeguard is found in Regulation 4(2) which states that the Panel or the PAC must be satisfied that the evidence or documents sought are relevant to a matter that it is investigating. The second safeguard is found in Regulation 6(1)(d) which enables any person to challenge a summons if that person believes that the evidence or documents are not relevant or necessary to the matter that the panel or the PAC is investigating. PPC has now concluded that this is the appropriate test for the proper exercise of the power of summons. Any link to the terms of reference or topics assigned to a panel as currently found in Regulation 3 simply introduces an unnecessary additional criteria against which a summons may be challenged. PPC agrees with the representations it has received from members involved in scrutiny that the only appropriate test should be whether or not the evidence is relevant to the particular matter that the panel is investigating. If, in undertaking the review of a summons under Regulation 7, the PPC finds that the evidence is clearly not relevant for the review being undertaken it can direct that the person is not required to obey the summons.

The Standing Orders as approved by the States have given a very wide discretion to scrutiny panels to review any matters of public importance which they, after consultation with the Chairmen's Committee, consider appropriate for review. It is therefore right that they should not be unnecessarily restricted in exercising their powers to find evidence that is relevant.

The actual amendment set out above is effectively nothing more than a consequential amendment to delete subparagraph 6(1)(a) which is a cross reference to Regulation 3. No formal amendment is required to delete Regulation 3 as this "amendment" will be achieved by the Chairman not proposing this Regulation.

There are no additional financial or manpower implications arising from this amendment.