

STATES OF JERSEY

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DRAFT PUBLIC ELECTIONS (EXPENDITURE AND DONATIONS) (AMENDMENT) (JERSEY) REGULATIONS 200

**Lodged au Greffe on 30th July 2008
by the Privileges and Procedures Committee**

STATES GREFFE



Jersey

DRAFT PUBLIC ELECTIONS (EXPENDITURE AND DONATIONS) (AMENDMENT) (JERSEY) REGULATIONS 200

REPORT

These Regulations propose an addition to the Public Elections (Expenditure and Donations) (Jersey) Regulations 2008 that were approved by the States on 18th July 2008.

During the debate on 18th July 2008 the States granted leave to the Chairman of PPC to withdraw the original Regulation 14 of the draft. This related to a prohibition on the publication of advertisements within 2 days of the poll and it was withdrawn after the Attorney General advised the Assembly that the Regulation imposed greater restrictions on candidates than had been intended. PPC's intention had always been that the restriction should only apply to the publication of advertisements in the news media but the Attorney General advised that, as drafted, the Regulation might also prevent activities such as the placing of banners by candidates and even the distribution of leaflets in door-to-door visits.

During the debate on 18th July many members expressed support for the original concept behind PPC's proposal, namely that there should be a period before the election with no last-minute advertising promoting candidates or prejudicing others. As stated in the report accompanying P.82/2008, the intention was to make it illegal for advertisements relating to an election to be published on the 2 days preceding an election and on polling day itself. With elections currently held on a Wednesday this would mean that, in practice, no election advertising could be published in the local newspaper after the Saturday edition.

PPC remains concerned about the possibility of negative advertising being published in the media immediately before an election when candidates and others have no possibility of any right of reply, and is therefore bringing these amending Regulations to enable members to consider this issue again. As can be seen, the proposed inserted Regulation 13A has now been very narrowly drafted to ensure that it only refers to the publication of advertisements in a newspaper or in the broadcast media (albeit that the regulation imposed on most radio and television broadcasters would already prevent any political advertising). The revised wording addresses many of the concerns expressed on 18th July and the provision would not, in any way, prevent the type of activities referred to during that debate such as the erection of posters, the placing of 'Vote Fred today' banners, the updating of candidates' own websites or the distribution of leaflets by candidates.

Financial/manpower implications

There are no financial or manpower implications for the States arising from these draft Regulations.

Explanatory Note

These Regulations add a provision to the Public Elections (Expenditure and Donations) (Jersey) Regulations 2008 that would prohibit the publication, on the 2 days preceding the day of a poll and on the day of the poll, of election material. The prohibition is confined to advertisements placed in a newspaper or periodical or included in a broadcast or transmission by cable, as part of a programme service. It extends to the online version of a newspaper or periodical or programme service.



Jersey

DRAFT PUBLIC ELECTIONS (EXPENDITURE AND DONATIONS) (AMENDMENT) (JERSEY) REGULATIONS 2008

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of the Order in Council of 28th March 1771^[1], have made the following Regulations –

1 Regulation 13A inserted

After the heading to Part 4 of the Public Elections (Expenditure and Donations) (Jersey) Regulations 2008^[2] there shall be inserted the following Regulation –

“13A Prohibition of advertising before poll opens

- (1) No person shall, on the day of the poll or during the 2 days preceding that day, publish any advertisement containing material that would –
 - (a) promote or procure the election of a candidate in the election; or
 - (b) prejudice the electoral prospects of a candidate in the election.
- (2) If any material is included in a publication in contravention of paragraph (1), the following persons shall be guilty of an offence and liable to a fine –
 - (a) where the publication is in a newspaper or periodical, or in any online edition of a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical or, as the case requires, of the online edition of the newspaper or periodical;
 - (b) where the publication is by way of a broadcast or transmission by cable, as part of a television or sound programme service, or by way of inclusion in any online version of such a programme service –
 - (i) any body corporate or limited liability partnership engaged in providing the programme service or, as the case requires, the online version of the programme service, in which the material is included, and
 - (ii) any person having functions in relation to the programme service or, as the case requires, the online version of the programme service in which the material is included, corresponding to those of an editor of a newspaper.
- (3) Where a person is charged with an offence under this Regulation, it shall be a defence to prove that, at the time of the alleged offence, the person was not aware and neither suspected nor had reason to suspect, that the publication included the advertisement.
- (4) For the purposes of this Regulation, any reference to the publication of an advertisement or to the inclusion of material in a publication means –

- (a) its appearance in a newspaper or periodical (including any online edition of a newspaper or periodical);
- (b) its broadcast or transmission by cable, as part of a television or sound programme service, or its inclusion in any online version of such a programme service.”.

2 Citation and commencement

These Regulations may be cited as the Public Elections (Expenditure and Donations) (Amendment) (Jersey) Regulations 200- and shall come into force 7 days after they are made.

[1]

chapter 15.120

[2]

R&O.87/2008