

STATES OF JERSEY



DRAFT FREEDOM OF INFORMATION (MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 12th August 2014
by the Chief Minister**

STATES GREFFE



Jersey

DRAFT FREEDOM OF INFORMATION (MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 201-

REPORT

Under Article 13 of the Freedom of Information (Jersey) Law 2011 (the “Law”), a period of 20 working days has been prescribed as the time within which a scheduled public authority must deal with a request for information. Article 13(2)(b) provides that Regulations may prescribe a different period. These Regulations prescribe such period as is reasonable in all the circumstances of the case, not exceeding 65 working days.

Any departure from the 20 working days must therefore be reasonable in all the circumstances. An example would be where a school received a request during the summer holidays when it was closed. A school can be closed for approximately 50 days over the summer recess. Clearly it will not be in a position to respond to the request immediately and, therefore, it would be reasonable in those circumstances to respond to the request at a time when the school is open.

There may be other circumstances where it is reasonable in all the circumstances to respond after the 20 day time period has expired. Rather than prescribe all possible circumstances in Regulations, it is perceived that the Regulator is better placed to decide what is reasonable in all the circumstances of the case.

Article 44 of the Law allows Regulations to permit or require the Information Commissioner to issue a Code of Practice.

These Regulations permit the Information Commissioner to issue such a Code of Practice. It also makes provision with respect to consultation and for action taken in response to a breach of the Code.

Financial and manpower implications

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

Explanatory Note

These Regulations are made under the Freedom of Information (Jersey) Law 2011 (“Law”).

Regulation 1 is an interpretation provision.

Regulation 2 prescribes a period within which information must be supplied by a scheduled public authority if such authority supplies information in response to a freedom of information request. Under the Law, that period is 20 working days following the day on which a request is received or such other period as is prescribed by Regulations. These Regulations prescribe such period as is reasonable in all the circumstances of the case not exceeding 65 working days following the day on which a request is received.

Regulation 3 is made under Article 44 of the Law, which allows Regulations to be made permitting or requiring the Information Commission to issue a Code of Practice. These Regulations permit the Information Commissioner to issue such a Code of Practice and make provision with respect to consultation and the action which may be taken in response to a breach of the Code.

Regulation 4 sets out the title of these Regulations and provides that they will come into force on the same date as the Law comes into force. The Law will come into force by Appointed Day Act.



Jersey

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(MISCELLANEOUS PROVISIONS) (JERSEY)
REGULATIONS 201-**

Arrangement

Regulation

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Jersey

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Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Articles 13, 44 and 53 of the Freedom of Information (Jersey) Law 2011¹, have made the following Regulations –

1 Interpretation

In these Regulations “Law” means the Freedom of Information (Jersey) Law 2011².

2 Time limits for authority to deal with a request for information

For the purposes of Article 13(2)(b) of the Law the period prescribed is such period as is reasonable in all the circumstances of the case, not exceeding 65 working days following the day on which the scheduled public authority received the request.

3 Code of Practice issued by Information Commissioner

- (1) The Information Commissioner may issue a Code of Practice for the purpose of giving guidance to scheduled public authorities with respect to the discharge of their functions under the Law.
- (2) The Information Commissioner may revise a Code of Practice issued under paragraph (1) from time to time as he or she thinks fit.
- (3) Before issuing a code of practice under paragraph (1), or any revisions to it under paragraph (2), the Information Commissioner must consult the Chief Minister.
- (4) If, in the opinion of the Information Commissioner, a scheduled public authority has failed to comply with any provision in a Code of Practice issued under this Regulation, the Information Commissioner may recommend steps that the scheduled public authority should take to comply with such a provision.

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- (5) A recommendation made under paragraph (4), including the name of the scheduled public authority to whom it is addressed, may be published by the Information Commissioner and included or referred to in the Information Commissioner's report under Article 43 of the Law.
 - (6) In considering whether a scheduled public authority has discharged its functions in accordance with the Law, the Information Commissioner in deciding an appeal under Article 46, or the Royal Court, in deciding an appeal under Article 47 or in dealing with any matter under Article 48, may take into account a Code of Practice issued under this Regulation and any recommendation made under paragraph (4).

4 Citation and Commencement

These Regulations may be cited as the Freedom of Information (Miscellaneous Provisions) (Jersey) Regulations 201- and shall come into force on the same date that the Freedom of Information (Jersey) Law 2011³ comes into force.

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- ¹ *L.17/2011*
² *L.17/2011*
³ *L.17/2011*