STATES OF JERSEY

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DRAFT PUBLIC FINANCES (JERSEY) LAW 200- (P.180/2004): SECOND AMENDMENT

Lodged au Greffe on 4th January 2005
by Deputy S.C. Ferguson of St. Brelade

STATES GREFFE

DRAFT PUBLIC FINANCES (JERSEY) LAW 200- (P.180/2004): SECOND AMENDMENT

PAGE 47, ARTICLE 47 –

Omit paragraph (3), substitute following paragraph –

"(3) It shall also be taken to require the Comptroller and Auditor General to consider and report to the States on –

(a) the effectiveness of the internal financial controls of States funded bodies and the internal auditing of those controls; and

(b) the economy, efficiency and effectiveness in the way they use their resources of States funded bodies, independently audited States bodies (other than those that are companies owned or controlled by the States), and States aided independent bodies; and

(c) the general corporate governance arrangements of the States and of States funded bodies, independently audited States bodies and States aided independent bodies,

and, in each case, to make recommendations to bring about improvement where improvement is needed.".

DEPUTY S.C. FERGUSON OF ST. BRELADE

REPORT

In their 1999 Report, the Audit Commission made specific recommendations regarding Corporate Governance arrangements which were adopted by the States. The Shadow Public Accounts Committee considers that these Corporate Governance arrangements should, because there are Public Monies involved, also be applied to States Funded bodies, independently audited States bodies and States aided independent bodies.

It therefore follows that there should be some means for assessing the compliance of these bodies with the principles of corporate governance. The appropriate office to conduct such investigations is that of the Comptroller and Auditor General.

The Shadow Public Accounts Committee also considers that there must be value for money reviews wherever Public Monies are involved and where there is no accountability to shareholders under the Companies (Jersey) Law 1991.

If the Comptroller and Auditor General is to perform this role, then it must be clearly set out in the duties required.

The purpose of this amendment, which substitutes the words "States funded bodies, independently audited States bodies and States aided independent bodies" for the words "States funded bodies" in 2 places in Article 47(3), is to make it explicit that it is part of the functions of the Comptroller and Auditor General to consider the efficiency and economy with which independently audited bodies and States aided bodies use their resources and to consider the corporate governance of these bodies.

It is implicit in Article 55(6) that this is the case since that Article lays down the procedure to be followed by the Comptroller and Auditor General when he or she consider action in this respect is necessary. It also provides for the Chief Officer to be given an opportunity to put his or her side of the case before the matter is reported to the States.

The advantage of making it explicit is that there can be no doubt about the extent of the functions of the Comptroller and Auditor General when it comes to the exercise of his or her powers, for example, the power under Article 56(1) which provides –

"(1) The Comptroller and Auditor General may in the exercise of his or her functions do all or any of the following –

(a) summons a person to appear before the Comptroller and Auditor General or to produce a specified record, or to do both;

(b) require a person to answer questions;

(c) require a person who has access to a record to provide the information contained in it to the Comptroller and Auditor General in a legible and comprehensible form.".

The amendment would not require the Comptroller and Auditor General to carry out internal audits of independently audited bodies or of States aided independent bodies since this would be inappropriate. It also does not allow for value for money audits on independently audited States bodies which are liable to income tax since these bodies are governed by the Companies (Jersey) Law 1991.

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