

PRIVILEGES AND PROCEDURES COMMITTEE

(9th Meeting)

30th July 2002PART A

All members were present. Deputy R.G. Le Hérissier was not present for items A1 to A3.

In attendance -

M.N. de la Haye, Deputy Greffier of the States
 D.C.G. Filippini, Executive Officer
 R.W. Whitehead, Principal Legal Adviser, Law Officers' Department
 Miss P. Staley, Senior Assistant Law Draftsman (for a time)
 S. Drew, Assistant Legal Adviser
 M.P. Haden, Committee Clerk.

Note: The Minutes of this meeting comprise Part A only.

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| Minutes | A1. The Minutes of the Meetings held on 27th June, 2nd and 12th July 2002, having been previously circulated, were taken as read and were confirmed. |
| Action Plan. | A2. The Committee noted the Action Plan, prepared by the Executive Officer, arising from the meeting held on 25th July 2002. |
| Ex.Off. | The Committee requested the Executive Officer to merge this document with the Action List prepared by the President in his outline report, dated 22nd July 2002, and to maintain a single composite document for ease of future reference. |
| Finance Report
30.06.02
1240/22/1/6/2
(1) | A3. The Committee received a financial report for the period ending 30th June 2002. It noted a balance of £20,091.36. An additional £45,000, agreed by the Finance and Economics Committee, had not yet been allocated to cost centres. |
| Ex.Off. | |
| Work
Programme.
1240/22/1/6/1
(2) | A4. The Committee, with reference to its Act No. A1 of 25th July 2002, received an update from members on the following aspects of its work programme - |
| Ex.Off. | <p>(a) Formation of Scrutiny Committees - It was agreed that the Committee's initial report to the States, required by the end of August 2002, would seek at this stage to indicate the main direction the Committee would be following in relation to scrutiny and the work yet to be done. The Committee would not yet in a position to be able to define its recommendations;</p> <p>(b) Code of Conduct for Members - It was noted that the Code of Conduct in many other jurisdictions was a short, concise document. It was agreed that matters such as Guidelines on the Register of Members' Interests could form a separate document. The Committee agreed to consider the draft Code at its next meeting.</p> |

The Deputy Greffier of the States was requested to check the number of enquiries currently made by the public in respect of the Register of Members' Interests held in the States Bookshop. It was of the view that the Register should be made available on the States website. It was further agreed that the Greffier should be requested to send an annual reminder to Members to update their entries in the Register. This reminder should include clear guidelines on matters that should be included in the declaration, including interests of spouses or partners.

The Committee discussed the current rules for Members declaring an interest and withdrawing from debate. The view was expressed that the standards currently applied in Jersey were particularly strict and sometimes lead to anomalies, such as the position of Deputy J.A. Martin declaring an interest in a debate on Housing rent subsidies and withdrawing from the debate despite the fact that she had been elected to the States on this issue. The possibility was put forward of a hybrid position whereby a member might declare an interest but remain to speak in a debate, without being able to vote. It was agreed that this suggestion required further consideration;

- (c) **Provision of accommodation, services and facilities for members** - The Committee received a report, dated 29th July 2002, prepared by the Executive Officer, detailing the results of the Members' facilities questionnaire.

It also noted correspondence from Deputy A. Breckon, dated 19th July 2002, indicating an alternative view that comprehensive facilities for States Members should be provided elsewhere than the States Building. No response to his suggestions, however, had been received from any other member.

The Executive Officer was requested to prepare a draft paper, in conjunction with Deputy J-A. Bridge, outlining proposals and costings for a multi-purpose common room with library and interview facilities in the current Land Registry area. This would be included as a further stage of consultation within the Committee's report to the States at the end of August 2002.

On a related matter, the Committee noted correspondence, dated 22nd July 2002, from the Bailiff's Chief Officer, indicating that, as far as the Bailiff was concerned, there was no objection in the long term, once the current refurbishment was complete, to furnishing members with the means of access to the States Building so that they might use the facilities provided for members.

As regards access to Morier House, H.M. Attorney General had written to the President on 22nd July 2002 indicating that there was no reason why relevant passes might not be made available to States members to enable access to the Privileges and Procedures Department and the Halkett Room. The Executive Officer was requested to pursue the provision of swipe cards to States Members accordingly;

- (d) **Remuneration and expenses provision for Members** - The Committee, with reference to its Act No. A5 of 27th June 2002, reviewed the agreed

consultation paper on Remuneration of members. It decided that it would be appropriate to include the paper in its report to the States at the end of August 2002, making it clear that at this stage the Committee was seeking the views of members and that any recommendations would be for the benefit of the future Assembly after the forthcoming elections. It requested the Executive Officer, in conjunction with Deputy J-A. Bridge, to review the paper accordingly.

States of Jersey
Law 1966 -
Amendment (No.
11) of Standing
Orders relating to
Certain
Transactions in
Land.
1240/4/1(24)

A5. The Committee, with reference to its Act No. A6 of 27th June 2002, recalled that it had accepted responsibility for taking forward an amendment to Standing Orders Relating to Certain Transactions in Land, the purpose of which was to increase financial limits so as to reduce the number of transactions requiring States' approval.

It was noted that other Committees, namely the Finance and Economics, Planning and Environment and Legislation Committees, had raised no objection to the Privileges and Procedures Committee taking on this responsibility.

The Committee, having noted that the necessary accompanying report had been finalised, agreed to lodge 'au Greffe' the draft Amendment (No. 11) of Standing Orders relating to Certain Transactions in Land for debate at the next available opportunity.

The Greffier of the States was directed to send a copy of this Act to the above Committees for information.

Ex.Off.
Pub.Ed.
States (2)
D.P.S.
C.I.Aud.
F.E.C.C.
T.O.S.
P.E.C.(2)
Leg.C.(2)

Reorganization of
Committees
(States' Reform -
Transitional
Arrangements)
(Jersey) Act 200-.
1240/22/1(17)

A6. The Committee, with Miss P. Staley, Senior Assistant Law Draftsman in attendance, received and considered the first draft of the Reorganization of Committees (States' Reform - Transitional Arrangements) (Jersey) Act 200-, the purpose of which was to give effect to the transitional departmental structure set out in Appendix 3 to P.70/2002 (Machinery of Government: Proposed Departmental Structure and Transitional Arrangements), as amended and adopted by the States on 24th July 2002.

Ex.Off.
L.D.

The Committee noted that it was anticipated that the Telecommunications Board would no longer be in existence at the end of the year 2002 following the incorporation of Jersey Telecom. Accordingly it was agreed that the Telecommunications Board should not be included in Article 5 of the draft Act on the amalgamation of Committees to form the Economic Development Committee. It was pointed out, however, that it was currently unclear whether there might be residual issues remaining after incorporation which might need to be taken up by the new Economic Development Committee. (The President declared an interest in this particular matter.) It was agreed that this matter would be dealt with separately if necessary.

The Committee decided to remove Article 9 of the draft Act which dealt with amendments to Standing Orders. It was agreed that policy matters, such as the distinction between Major and Minor Committees and the standard membership of Committees, should be dealt with by a separate amendment to Standing Orders.

The Senior Assistant Law Draftsman was requested to prepare the necessary revised draft Act accordingly, and, in due course, the appropriate draft amendment to the Standing Orders of the States of Jersey, which could embrace a number of outstanding issues. The Senior Assistant Law Draftsman and Deputy Greffier of the States were requested to liaise in the matter.

States of Jersey
Law 1966, as
amended -
declaration by
candidates for
office of Senator
or Deputy.
1240/1/2(27)

Ex.Off.
D.G.O.S.
L.D.
Leg.C.(2)
C.des C.

A7. The Committee, with reference to its Act No. A10 of 14th June 2002, considered a draft Declaration Form to be made by candidates for the office of Senator or Deputy in pursuance of Article 8 of the States of Jersey Law 1966, as amended in respect of any relevant previous convictions.

The Committee recalled that it had agreed to take this matter forward in time for the forthcoming elections.

It was noted that a note on the consequences of making a false declaration was to be inserted on the Declaration Form.

It was further noted that the Declaration Form contained a sentence indicating that the candidate accepted that the contents of the declaration might be made public. The Committee was of the view that the public nature of the declaration was implicit in the Law. However, it requested the Assistant Legal Adviser to clarify the matter.

The Senior Assistant Law Draftsman was requested to prepare the necessary draft Order to bring into effect the obligation on candidates to make a declaration. The Executive Officer was requested to liaise with the Comité des Connétables in respect of the Declaration Form.

The Greffier of the States was directed to send a copy of this Act to the Legislation Committee for information.

Reorganization of
Committees -
transitional
arrangements -
policy matters.
1240/22/1(17)

Ex.Off.
L.D.
D.G.O.S.

A8. The Committee considered a number of policy issues in relation to the amalgamation of Committees following the decision of the States to adopt P.70/2002 as amended, as follows -

- (a) **Major and Minor Committees** - The Committee noted that the new Committee structure would consist of only 14 Committees in total, of which two were Trading Committees, Harbours and Airport and Postal Administration, and two were 'Minor' Committees, Legislation and Overseas Aid. It was anticipated that the Cottage Homes Committee would no longer be in existence, subject to States agreement in September 2002. The Committee agreed that there was no reason to maintain the distinction between Major and Minor Committees during the transitional phase;
- (b) **Multi-Committee membership** - The Committee, having agreed that it was important to involve all States members as fully as possible in Committee work, agreed that States members should not be eligible as a member of more than two Committees;
- (c) **Presidency** - The Committee, having agreed that it was important to allow as many Members as possible to take presidencies, agreed that States members should not be eligible as President of more than one Committee; and
- (d) **Constitution of Committees** - The Committee agreed that Committees should consist ordinarily of not less than five members, unless a decision was taken to the contrary on any particular Committee.

The Committee requested the Deputy Greffier of the States to make arrangements for the amendments to Standing Orders to be prepared.

Policy and Resources Committee: draft report and proposition on the Structure of the Executive. 1240/22/1(18)

A9. The Committee, with reference to its Act No. A2 of 25th July 2002, gave further consideration to the draft report and proposition of the Policy and Resources Committee on the Structure of the Executive.

The Committee recalled that it had agreed its comments on the draft report at its meeting on 2nd July 2002 but had deferred consideration of the appendices. The Committee turned its attention to Appendix Two, namely 'Guidance and Procedure for Ministers', and agreed the following comments -

Ex.Off.
C.E., P&R
P.R.C.C.
P.R.E.O.

- (a) **Status of 'Guidance and Procedure for Ministers' document** - The Committee decided to request the Policy and Resources Committee to consider withdrawing Appendix Two from the draft report and proposition. The Committee was mindful that, in the United Kingdom, the guidance given to Cabinet Ministers in the document, 'Questions of Procedure for Ministers', was not laid down by Parliament but was the work of the Prime Minister who wished to clarify the standards expected for his own team. It was not, therefore, binding in the same sense as Standing Orders or the Code of Conduct for Members. Its language was advisory as opposed to mandatory. There were no sanctions for breach of the 'Questions of Procedure' other than dismissal for neglect of its provisions.

The Committee formed the view that the 'Guidance and Procedure for Ministers' should not be given the status of a Code by presenting it to the States for approval. Furthermore, it should be for the Chief Minister to revise the 'Guidance and Procedure for Ministers' document once in office to ensure that it was in accordance with his/her management methods and style. However, if the document was to be presented to the States as part of a report and proposition, it would imply that any modification of the document should similarly be submitted to the States for approval;

- (b) **Collective responsibility** - The Committee agreed that the doctrine of collective responsibility, as defined in Appendix Two, was too prescriptive. The Committee was mindful of other jurisdictions, such as the Isle of Man, which had set less rigid rules and had allowed its policy in this respect to evolve. The Committee formed the view that the question of collective responsibility was intimately linked with the management style adopted by the Chief Minister. It recognised the need to have in place a mechanism ultimately of removing from office a Minister who, for whatever reason, failed to co-operate in pursuing the policies agreed by the Council of Ministers. However, it felt that other management options were available to the Chief Minister before applying the ultimate test of rigid allegiance to policy;
- (c) **Access and retention of documents** - The Committee agreed that the rules applying to the access and retention of documents needed further consideration, particularly in respect of the access to information on ministerial decisions on the part of Scrutiny Committees. Clarification was required on the way such decisions would be documented and recorded.

It was noted that the draft document referred to a presumption in favour of Ministers having access to information in line with the current Code of Practice on Public Access to Information. However, it was pointed out that this Code referred to 'Public' access. The Committee was of the view that a specific Code should be drawn up regarding access for Ministers and Scrutiny Committee to relevant information. Clear guidance was required on appropriate exemptions to full access to information. Consideration was

needed on access to information across ministerial boundaries.

As regards the rules following a change of administration, the Committee was mindful that the position in Jersey was different from the United Kingdom model where a Party Political system existed. Restrictions on access to information should be confined as far as possible to private, personal information.

The Committee gave further consideration to the following issues contained in the main body of the report -

- (i) **Vote of no confidence in an individual minister** (paragraph 5.4) - The view was expressed that the alternative offered by the Policy and Resources Committee, namely the possibility of a proposition of no confidence in the whole Council of Ministers, was too drastic an option and would lead to a tendency to inertia. It was pointed out, on the other hand, that there were alternative measures available, such as the Scrutiny system, to bring pressure to bear on individual Ministries which might be considered to be failing; and
- (ii) **Role of assistant minister in the absence of a minister** (paragraph 6.5) - The Committee formed the view that it might be necessary to provide in the new States of Jersey Law for the assistant minister to cover the absence of a minister.

The Committee agreed that it would be appropriate to discuss its comments on the above draft report and proposition in the first instance with the Machinery of Government Sub-Committee of the Policy and Resources Committee. The Executive Officer was requested to make the necessary arrangements.

The Greffier of the States was directed to send a copy of this Act to the Policy and Resources Committee.

Seminar for prospective election candidates.

A10. The Committee considered a suggestion that a seminar be held in September 2002 for prospective election candidates in order to brief them on practical issues relating to membership of the States.

Ex.Off.

The Committee agreed that such an opportunity was likely to be helpful to prospective candidates. The Executive Officer was requested to make arrangements for such an event and to make enquiries whether the States Chamber might be made available for this purpose.

Matters for information.

A11. The Committee noted the following matters for information -

- (a) that an e-mail address was to be set up for the Committee at ppc@gov.je;
- (b) job advertisements with salary ranges relating to the Members' Research Service for the National Assembly for Wales;
- (c) that the President had written to the Bailiff regarding the presidency of the Assembly in circumstances where the States continued to sit over several days and clashes arose with sessions of the Royal Court;
- (d) Act No.A1, dated 5th July 2002 of the Policy and Resources Committee in connexion with Machinery of Government: Departmental Structure and Transitional Arrangements (P.70/2001) - comments on amendment of

Deputy G.C.L. Baudains; and

- (e) the date of the next meeting which was to be held on 8th August 2002, between 9 a.m. and 11 a.m. in the Halkett Room, Morier House.