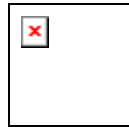


**Lodged au Greffe on 6th July 1999  
by the Special Committee on Freedom of Information**

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**STATES OF JERSEY**

**STATES GREFFE**

175

1999

P.101

Price code: A

## PUBLIC ACCESS TO OFFICIAL INFORMATION: CODE OF PRACTICE (P.38/99) - SECOND AMENDMENTS

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*In sub-paragraph (b) of the proposition, after the figures 1999 insert the following words -*

except that -

(i) in paragraph 3.1 of the Code (Access) in sub-paragraph (a) after the word “possession” insert the words -

“, except for -

(i) Committee meeting agendas and minutes;

(ii) papers forming part of such an agenda, until after the relevant meeting has taken place;”

(ii) in sub-paragraph (a) of paragraph 3.2 (Exemptions) -

(a) after clause (vii) insert the following clause -

“(viiA) prejudice the defence of the Island or any of the other British Islands or the capability, effectiveness or security of the armed forces of the Crown or any forces co-operating with those forces;

(b) after clause (xiii) insert the following clause -

“(xiiiA) inhibit the free and frank provision of advice or the free and frank exchange of views for the purposes of decision-making;”

## SPECIAL COMMITTEE ON FREEDOM OF INFORMATION

### REPORT

#### **Sub-paragraph (i)**

The Special Committee, as presently constituted, has always been of the view that the disclosure of Committee agendas, supporting papers and minutes would not be helpful, and in particular as explained in sub-paragraph 4.1(i) on page 11 of the report accompanying the proposition PUBLIC ACCESS TO OFFICIAL INFORMATION: CODE OF PRACTICE (P.38/99) it pointed out that a system which required the editing of agendas and minutes so that confidential matters should not be made public would be both expensive and time-consuming. States members are elected as representatives, not as delegates, of the electors and Committees of the States should be free to develop their policies for the public good.

The Special Committee was recently advised that the Code, as presently drafted, would indeed permit the release of agendas, supporting papers and minutes unless the subject matter contained in them was specifically excluded by exemptions in section 3.2(a). The Special Committee has accordingly decided to propose an amendment of the Code of Practice so that information of this kind would not normally be accessible.

The Special Committee recognizes that the amendment may be controversial but considers that it properly balances the interests of good government and the desirability of greater public access to official information.

#### **Sub-paragraph (ii)**

Throughout its term of office the Special Committee, as presently constituted, like its predecessors has been alert to developments regarding public access of official information in other jurisdictions. In that connection the Committee has examined the consultation paper “Freedom of Information” (Cm. 4355) recently published by the Secretary of State for the Home Department in the United Kingdom, which includes a draft Freedom of Information Bill.

The Special Committee was encouraged to see that much of the material in the draft Code of Practice mirrors in an informal style the provisions of the draft Bill. However, study of the Bill disclosed two omissions from the exemptions set out in the Code of Practice and amendment (ii) seeks to rectify the omissions.

The amendment in sub-paragraph (a) relates to the defence of the Island, and the other British Islands, including the United Kingdom. Although an authority in Jersey is unlikely to hold information of the kind mentioned, it is as well that Jersey stays in line with the United Kingdom's proposals in this area (Clause 21 of the draft Bill). The amendment in sub-paragraph (b) also mirrors the relevant part of a provision (clause 28) of the draft United Kingdom Bill regarding decision-making and policy formulation. The Special Committee considers that within a small Island environment, good government requires that Committees and their officers should be free to discuss candidly and in an uninhibited manner the issues that they must resolve and that it is desirable that some of this discussion should not become public. The Special Committee has not, however, adopted the proposal in the United Kingdom Bill which would prohibit the disclosure of information -

“which would ..... prejudice, or would be likely ..... to prejudice, the effective conduct of public affairs”

which the Committee considers to be too widely drawn. Again the Special Committee considers that its amendment properly balances the interests of good government and greater public access to official information.