

PRIVILEGES AND PROCEDURES COMMITTEE

(18th Meeting)

3rd October 2003PART A

All members were present, with the exception of Deputies F.J. Hill, B.E.M. and R.G. Le Hérissier, from whom apologies had been received.

Senator C.G.P. Lakeman  
 Connétable D.F. Gray  
 Deputy C.J. Scott-Warren  
 Deputy J-A. Bridge  
 Deputy J.A. Bernstein

In attendance -

M.N. de la Haye, Greffier of the States  
 D.C.G. Filipponi, Assistant Greffier of the States (for a time)  
 Mrs J. Marshall, Senior Executive Officer  
 Ms P. Staley, Law Draftsman (for a time)  
 R.W. Whitehead, Principal Legal Adviser (for a time)  
 Mrs K.M. LARBALÉSTIER, Acting Committee Clerk.

Note: The Minutes of this meeting comprise Part A and Part B.

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| Minutes   | A1. The Minutes of the meeting held on 19th September 2003, having been previously circulated, were taken as read and were confirmed.   |
| Privileges and Procedures Committee - Committee room, Morier House. 1060/214/1 (46) | A2. The Committee, with reference to its Act No. A4(c) of 19th September 2003, noted that the Department of Property Services had agreed that members could use the room adjacent to the Peirson Room as an office.   |
| Ex.Off.<br>P.R.C.C.<br>P.R.E.O.<br>C.E., P&R  | <p>The Committee was advised that an annual rental of £3,200 was charged for this room. This sum had already been paid for the current year by the previous user, the Law Officers' Department. A computer with access to the States of Jersey network and a printer would be made available for members' use together with two telephone lines.</p> <p>The Committee agreed that members should be provided with a security access card in order that they could make use of the room at any time.</p> <p>The Committee was of the view that, having secured accommodation for use by its own members, it would wish to encourage other States Committees to do the same in order that members could keep confidential papers in the relevant departments.</p> <p>The Greffier of the States was requested to send a copy of this Act to the Policy and Resources Committee.</p> |
| Shadow Scrutiny. 465/1(31)  | A3. The Committee, with reference to its Act No. A6 of 19th September 2003, received a note of the meeting of Presidents, held on 28th September 2003, attended   |

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States (2)

by Deputy R.G. Le Hérisssier representing the Committee.

The Committee was advised that the above meeting had considered a copy of the report on the implementation of Shadow Scrutiny. The Committee considered the comments made thereon and agreed, as follows -

- (a) **that the Chairmen of the Shadow Scrutiny Panels should be selected from the whole Assembly;**
- (b) **that the States should be requested to confirm that Presidents of States Committees should not sit on Shadow Scrutiny Panels;**
- (c) **that members of the Privileges and Procedures Committee should not also be members of Shadow Scrutiny Panels. Those members who wished to serve on Panels should resign from the Privileges and Procedures Committee. Those members present agreed to this; and**
- (d) **that training should be available to all States members.**

The Committee noted the comments made in relation to the selection procedure for the appointment of members to the Shadow Scrutiny Panels and agreed that it would not be appropriate for members of the Committee to serve on Shadow Scrutiny Panels because of the Committee's monitoring role.

The Committee received and approved a draft copy of a letter to be sent to all States members requesting expressions of interest in being a member of a Shadow Scrutiny Panel.

The Committee discussed the issue of Shadow Scrutiny Panels benefiting from parliamentary privileges and noted that there was a need to identify a mechanism for this. It requested that the Greffier of the States explore the same with the Principal Legal Adviser.

The Committee received a revised copy of the report on the proposed arrangements for Shadow Scrutiny and agreed that it should be presented to the States as a *Rapport et Correspondence*. The Greffier of the States was directed to take the necessary action.

States of Jersey  
Law 200-:  
revised draft.  
450/1(1)

A4. The Committee, with reference to its Act No. A7 of 19th September 2003, received Ms. P. Staley, Law Draftsman, and Mr. R.W. Whitehead, Principal Legal Adviser, to discuss the latest revised draft of the new States of Jersey Law.

The Committee considered the draft law and agreed/discussed the following -

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that the apostrophe after States' Greffe should be removed (this had occurred as a result of the translation from French to English of the original name of the Department and was not commonly used);

the Committee discussed the preamble and considered some proposed amendments to the same. Members received two papers from Mr. Whitehead relating to the purpose of the preamble, one prepared by G.C. Thornton, OBE, QC, MA, LLB, Barrister and Solicitor and the other prepared by F.A.R. Bennion MA (Oxon), Barrister. Mr. Whitehead explained that it was generally accepted that the preamble stated the purpose of the legislation. It was uncommon for the preamble to make a statement. Mr. Whitehead stated that whilst he was not advising the

Committee against making a statement of facts in the preamble, if the Committee decided to proceed in this manner careful consideration had to be given to the content of the same. The Committee agreed that the President and Vice President should discuss this matter with H.M. Attorney General and, in the interim, the preamble would be removed from the draft;

Ms. Staley agreed to consider whether the issue of codification should be referred to in the new law.

The Committee then considered the various Articles under each part of the draft Law making the following key decisions -

**Part 1 Article (1)** - the Committee agreed that the reference to the definition of a “stranger” meaning “any person other than the Deputy Bailiff, a member of the States, the Greffier of the States, the Deputy Greffier of the States or the Viscount” should also include any person appointed as Acting Greffier under Article 40 of the draft States of Jersey Law 200-. The Committee was also mindful of the fact that the position of Viscount was currently vacant;

**Part 2 Article 2 (1)** - the Committee discussed the constitution of the States and the inclusion of unelected members. It noted that a member of the Assembly had declared the intention to lodge “au Greffe” a report and proposition, the purpose of which was to seek the approval of the States to the removal of the Dean of Jersey from the constitution;

**Part 2 Article 3 (1)** - the Committee discussed the Presidency of the States and, in particular, the person chosen by the Bailiff to preside over meetings of the States Assembly in the absence of the Bailiff or Deputy Bailiff. It was agreed that the President and Vice President should discuss this particular issue with the Bailiff;

**Part 2 Articles 7 and 8** - the Committee decided to delete 7(b)(i) which stipulated that a person had to be Jersey born to qualify for the offices of Senator and Deputy. It discussed replacing the aforementioned with the requirement that a person could qualify for the offices of Senator or Deputy if they were qualified to be on the Register of those eligible to vote, in accordance with the Public Elections Law. The Committee also agreed that paid Police Officers should be specified as being disqualified from standing;

**Part 4 Article 18** - the Committee noted and approved amendments proposed by Ms. Staley.

**Part 4 Article 19(8)** - the Committee agreed that the 8 week period stipulated in this article would be inappropriate in the case of a vote of no confidence

**Part 4 Article 26** - the Committee noted a proposal to include a provision for Ministers to hold immovable property. It was agreed that further consideration would have to be given to this particular issue.

**Part 7 Article 43 (3)(a)** - the Committee noted that the constitution of the Public Accounts Committee had not been included in P79/2003 and it agreed that it would wish this information to be included in the draft

Law. The Senior Executive Officer was directed to liaise with Ms. Staley in this connexion. It was also agreed to reverse the order of Article 43(2) sub-sections (b) and (c).

The Committee expressed its appreciation for the work carried out to date on the draft Law by Ms. Staley and Mr. Whitehead. It agreed to delegate authority to the President and Vice President to approve an amended draft to be forwarded to the Policy and Resources and Finance and Economics Committees for comment.

Committee  
Statements -  
possible  
amendment to  
Standing Orders.  
1240/4(155)

A5. The Committee, with reference to its Act No. A5 of 19th September 2003, considered a paper, dated 29th September 2003, prepared by the Greffier of the States, regarding the possibility of amending Standing Orders to enable questions to be asked following Committee statements in the States Assembly.

The Committee was advised that there was, currently, no provision in standing Orders either to prevent or to allow questioning on a Committee statement.

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

In order to achieve the proposed change the Committee was advised that references to statements in Standing Order 6A could be removed and that Standing Order 16 could be replaced with a new three part Standing Order. The advice of the Greffier of the States was that this could be done quite easily and quickly.

Following careful consideration of the above the Committee concluded that as the new Standing Orders, which would come into force on the commencement of the ministerial system of government, would correct all currently anomalies it would not be in the interests of good government to make piecemeal changes. Therefore, the Committee decided to advise the Policy and Resources Committee that it could not support the proposed changes to Standing Orders. The Senior Executive Officer was requested to write to the President of the Policy and Resources Committee confirming the Committee's decision.

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

Code of Practice  
on Public Access  
to Official  
Information -  
draft report and  
proposition.  
955(30)

A6. The Committee, with reference to its Act No. A8 of 19th September 2003, received an oral update report from the Vice President on the draft report and proposition regarding proposals to improve the implementation of the Code of Practice on Public access to Official Information.

The Vice President advised members that she had met media representatives on 30th September 2003, to discuss the proposals. The Committee noted that the proposals had been well received and that media representatives welcomed the opportunity to view agendas. The point had been made, however, that sending Committee agendas to media representatives was time critical in order that information remained newsworthy. The Committee discussed the difficulties associated with sending agendas electronically in terms of both security and the fact that Committee papers often originated from a variety of sources. The Vice President advised that Channel Television had suggested posting agendas on their teletext pages.

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L.D.

It was noted that some States Committees already sent copies of agendas to the media and provided a summary of decisions following the meeting. The Committee, having noted that the Department of Planning and Building Services currently operated such an arrangement, suggested that the Senior Executive Officer contact officers of that Department to discuss the practicalities of operating such a system.

The Vice President informed the Committee that all media representatives were

particularly supportive of that part of the proposition which empowered the Greffier of the States to ensure that all Acts recorded in the part B of the Minutes of States Committee meetings were properly exempt from disclosure in accordance with the provisions of the Code.

The requirement to make the model Freedom of Information Law, which had been identified by H.M. Attorney General, relevant in the Jersey context was discussed and it was noted that a law drafting brief would be required in order to facilitate this. It was agreed that the Executive Officer, with the assistance of the Greffier of the States, would produce the brief for the Law Draftsman.

The Committee approved amendments to the draft report and proposition and it was agreed that the Vice President would liaise with the Greffier of the States in relation to finalising the same.

Fundamental  
Spending Review  
465/2(5)  
1240/22(31)

A7. The Committee, with reference to its Act No. A10 of 19th September 2003, received a report, dated 30th September 2003, from the Assistant Greffier of the States in connexion with the 2005 Fundamental Spending Review.

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F.E.C.C.  
T.O.S.

The Committee recalled that its cash limit had recently been increased following the agreed transfer of specific budgets from the Finance and Economics Committee. It noted that its cash limit now totalled £3,966,950.

The Committee was advised that, following discussion with the States Treasury, it had been agreed that it should make a demand-led growth submission for 2005 in the sum of £760,000 in respect of States members' expense and income supplement, based on the assumption that means-testing would be abolished and that all States members would claim the full amount.

The Committee noted that it was required under the Fundamental Spending Review process to identify five per cent savings proposals over the three year period 2005-2007. This could be achieved either by identifying specific target areas from which the saving could be made or making a straight saving across all areas. The Committee was, therefore, being requested to indicate its preferred approach.

The Committee, having discussed the above approaches, agreed that it would prefer to identify specific target areas of its budget from which a 5 per cent saving could be achieved. It requested that the Assistant Greffier of the States prepare a report setting out various options on this basis. The Committee was advised that it would also receive a service analysis report for 2004 which would identify areas of potential savings at a subsequent meeting.

The Greffier of the States was requested to send a copy of this Act to the Finance and Economics Committee.

Migration Policy  
(P.102/2003) -  
request to provide  
full legal advice.  
499/3(17)

A8. The Committee, with reference to its Act No. A12 of 30th May 2003, considered a request from Senator P.V.F. Le Claire to consider asking the Policy and Resources Committee to provide States members with the full legal advice given to that Committee on the subject of its Migration Policy (P.102/2003).

C.E., P&R  
P.R.E.O.  
P.R.C.C.  
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The Committee recalled the circumstances which had led to Senator Le Claire's original request. It had previously written to Senator Le Claire advising that it was seeking advice from H.M. Attorney General in relation to the issue of the conveyance of legal advice from Committee Presidents to members of the States. At that time the Committee had expressed the view that, in general, the full contents of legal advice should be disclosed rather than only part of the same.

The Committee discussed further the above request and, having recognised that this was an evolving issue, noted that it could not accede to Senator Le Claire's request at the present time. It was, however, of the opinion that if members were provided with a summary or extract of legal advice this should be made absolutely clear.

The Senior Executive Officer was requested to write to Senator Le Claire advising him of the above.

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

States meetings  
dates for 2004  
1240/2(63)

A9. The Committee received a report, dated 30th September 2003, from the Greffier of the States in connexion with the proposed meetings dates for the States Assembly in 2004.

G.O.S.  
States (2)  
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The Committee agreed the following dates (which were in accordance with guidelines set out in Standing Orders) -

January 20  
February 3 and 17  
March 2, 16 and 30  
April 20  
May 11 and 25  
June 8 and 22  
July 6 and 20

September 14 and 28  
October 12 and 26  
November 9 and 23  
December 7 & 8 (budget) and 14

The Committee requested that arrangements be made to notify States members of the above dates.

The Committee agreed that the matter of the need for additional dates should be referred for consideration to the Working Party on the arrangement of Public Business.

Remuneration  
Sub-Committee -  
recommendations.  
1240/3(70)

A10. The Committee, with reference to its Act No. A4. of 11th July 2003, received the notes of the Remuneration Sub-Committee meeting which had been held on 2nd October 2003. The notes had been prepared by the Greffier of the States.

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The Committee noted that the Sub-Committee had made the following recommendations -

**means testing** - the Sub-Committee had recommended that a report and proposition for the abolition of means testing be lodged "au Greffe" as soon as possible. The Sub-Committee believed that the States should be asked to agree that means testing be abolished with effect from 1st January 2004.

**remuneration levels** - the Sub-Committee maintained the view that all members should receive the same level of remuneration irrespective of the position of responsibility held. The Sub-Committee believed that this was a matter for the States Assembly to decide upon nearer to the date of the introduction of ministerial government.

**terms of reference of proposed Review Body** - the Sub-Committee recommended that the clause in the terms of reference which required the Review Body to take account of the existing level of remuneration and expenses paid to elected members should be removed to enable the Review Body to assess the appropriate level of remuneration without being required to take the current figures as a starting point. The Committee noted the exact nature of the proposed amendment.

The Sub-Committee had suggested that the review body meet in 2004 so that it could make recommendation in time for January 2005.

**proposed membership of review body** - the Sub-Committee had recommended that members of the review body be appointed after the States had agreed the terms of reference.

Having considered the above recommendations the Committee endorsed the same and agreed that a report and proposition, the purpose of which would be to abolish means testing with effect from 1st January 2004, should be prepared and lodged "au Greffe" through the intermediary of the Finance and Economics Committee. The Committee also agreed that a report and proposition should be prepared setting out the terms of reference of the proposed review body. Members agreed that both propositions should be lodged on the same day so that members could appreciate the Committee's overall proposals on the matter of remuneration.

On a related matter the Committee received an oral report from the Executive Officer in relation to a meeting she had attended with representatives of the States Treasury in connexion with the issue of the removal of means testing and future proposals for the payment of States members income support and allowance payments. It was noted that a written report would be prepared for consideration by the Committee at its next meeting which would detail the discussions and outline the proposals.

Matters for information.

A11. The Committee noted the following matters for information -

- (a) correspondence, dated 13th June 2003, from the Honorary Secretary of the Commonwealth Parliamentary Association on the draft Strategic Plan for the Association for the period 2003 to 2007 and the election of the Treasurer; and
- (b) correspondence, dated 18th September 2003, from the President of the National Trust for Jersey regarding Heritage Open Day 2003.

Date of next meeting.

A12. The Committee confirmed the date of its next meeting to be held on 17th October 2003 commencing at 9.30 a.m. in the Halkett Room, Morier House.