

# STATES OF JERSEY ORDER PAPER

Tuesday, 23rd, Wednesday 24th and Thursday  
25th July 2002

**A. COMMUNICATIONS BY THE BAILIFF**

**B. TABLING OF SUBORDINATE LEGISLATION**

*(Explanatory note attached)*

Royal Court (Amendment No. 19) Rules 2002. R & O  
62/2002.

*Superior Number of the Royal Court.*

Criminal Procedure (*Tirage*) (Jersey) Rules 2002. R & O  
63/2002.

*Superior Number of the Royal Court.*

Community Provisions (Control of Exports of Dual-Use  
Items and Technology) (Application) (Amendment)  
(Jersey) Order 2002. R & O 64/2002.

*Finance and Economics Committee.*

**C. MATTERS RELATING TO COMMITTEE  
MEMBERSHIP**

Resignation of Deputy C.J. Scott Warren of St. Saviour  
from the Industries Committee.

**D. PRESENTATION OF PAPERS**

**(a) Papers for information**

### **Matters presented under Standing Order 6A(1)(a)**

Working Party on Public Entertainment: R.C.26/2002.  
final report.  
*Legislation Committee.*

Machinery of Government: proposed P.70/2002  
departmental structure and transitional Com.(2)  
arrangements (P.70/2002) - comments.  
*Finance and Economics Committee.*

Jersey Consumer Council: transfer of P.167/2001.  
responsibility (P.167/2001): comments. Com.(2).  
*Industries Committee.*

Agriculture and Fisheries: policy report P.115/2002.  
2001 (P.115/2002): comments. Com.  
*Finance and Economics Committee*

### **Matters presented under Standing Order 6A(1)(b)**

#### **(b) Notification of Standing Order decisions**

17th July 2002

Decisions under delegated functions.  
*Finance and Economics Committee.*

#### **(c) Notification of acceptance of tenders**

17th July 2002

Le Rocquier School redevelopment: Phase 1 - sports fields.  
*Education Committee.*

**(d) Papers to be lodged “au Greffe” under Standing Order 17A(1)(a)**

Meetings of the States in 2003: suspension of Standing Order 4(1).  
*Privileges and Procedures Committee.* P.124/2002.

Draft Sea Fisheries (Ormers - Temporary Restrictions) (Repeal) (Jersey) Regulations 200-.  
*Agriculture and Fisheries Committee.* P.125/2002.

Draft Sea Fisheries (Miscellaneous Provisions) (Amendment No. 2) (Jersey) Regulations 200-.  
*Agriculture and Fisheries Committee.* P.126/2002.

Draft Sea Fisheries (Minimum Size Limits) (Amendment) (Jersey) Regulations 200-.  
*Agriculture and Fisheries Committee.* P.127/2002.

Jersey Harbours: progress towards the Trust Port.  
*Harbours and Airport Committee.* P.128/2002.

Jersey Harbours: Harbour Dues.  
*Harbours and Airport Committee.* P.129/2002.

**(e) Notification of Papers lodged “au Greffe” under Standing Order 17A(1)(b)**

**E. STATEMENTS AND PROPOSITIONS RELATING TO THE ARRANGEMENT OF PUBLIC BUSINESS AT THIS OR ANY SUBSEQUENT MEETING**

THE STATES are asked to agree that the following matters lodged "au Greffe" be considered at their next meeting on 10th September 2002 -

Draft Water Pollution (Amendment) P.100/2002.  
(Jersey) Law 200-  
Lodged: 11th June 2002.  
*Public Services Committee.*

Cottage Homes Committee: transfer of P.104/2002.  
functions to Housing Committee.  
Lodged: 18th June 2002  
*Housing Committee.*

Cottage Homes Committee: transfer of P.104/2002.  
Functions to Housing Committee Com.  
(P.104/2002) - comments.  
Presented: 9th July 2002.  
*Finance and Economics Committee.*

Draft Public Records (Jersey) Law 200- P.107/2002.  
Lodged: 18th June 2002  
*Finance and Economics Committee.*

Abattoir, La Collette, St. Helier: transfer of P.109/2002.  
administration.  
Lodged: 25th June 2002.  
*Agriculture and Fisheries Committee.*

In accordance with Standing Order 22(3), Deputy A.J. Layzell of St. Brelade has instructed the Greffier of the States to withdraw the proposition regarding Meetings of the States: restriction of the length of Question Time (P.93/2002) lodged "au Greffe" on 28th May 2002.

## **F. PRESENTATION OF PETITIONS**

## **G. QUESTIONS**

Deputy G.C.L. Baudains of St. Clement will ask questions of the President of the Harbours and Airport Committee regarding fencing on the New North and Victoria Quays, and personal correspondence.

Senator P.V.F. Le Claire will ask a question of the President of the Agriculture and Fisheries Committee regarding the site at Crabbé, St. Mary.

Deputy R.G. Le Hérisier of St. Saviour will ask a question of the President of the Industries Committee regarding the granting of a licence for a new retail outlet.

Senator P.V.F. Le Claire will ask a question of the President of the Planning and Environment Committee regarding the site at Crabbé, St. Mary.

Deputy R.G. Le Hérisier of St. Saviour will ask a question of the President of the Public Services Committee regarding the school bus service.

Deputy P.N. Troy of St. Brelade will ask a question of the President of the Public Services Committee regarding the school bus service.

The Deputy of St. John will ask a question of the President of the Public Services Committee regarding the St. Helier Surface Water Link and Storage Tank Contract (“The Cavern”): Report – Volume 1 (R.C. 14).

## **H. MATTERS OF PRIVILEGE**

## **I. PERSONAL STATEMENTS**

## **J. COMMITTEE STATEMENTS**

## **K. PUBLIC BUSINESS**

Machinery of Government: proposed departmental structure and transitional arrangements.

P.70/2002.

Lodged: 30th April 2002.

*Policy and Resources Committee.*

Machinery of Government: proposed departmental structure and transitional arrangements (P.70/2002) - comments.

P.70/2002.  
Com.

Presented: 11th June 2002.

*Human Resources Committee.*

Machinery of Government: proposed departmental structure and transitional arrangements (P.70/2002) - comments.

P.70/2002  
Com.(2)

Presented: 23rd July 2002.

*Finance and Economics Committee.*

Machinery of Government: proposed departmental structure and transitional arrangements (P.70/2002) - amendment.

P.70/2002.  
Amd.

Lodged: 28th May 2002.

*Deputy G.C.L. Baudains of St. Clement.*

Machinery of Government: Proposed Departmental Structure and Transitional Arrangements (P.70/2002): amendment (P.70/2002 Amd.) - comments.

P.70/2002  
Amd. Com.

Presented: 9th July 2002.

*Policy and Resources Committee.*

Machinery of Government: proposed departmental structure and transitional arrangements (P.70/2002) - second amendments.

P.70/2002.  
Amd.(2)

Lodged: 2nd July 2002.

*Policy and Resources Committee.*

Machinery of Government: proposed departmental structure and transitional arrangements (P.70/2002): third amendment.  
Lodged: 9th July 2002.  
*Policy and Resources Committee.*

P.70/2002.  
Amd.(3).

Note: A consolidated proposition incorporating the amendments of the Policy and Resources Committee is *attached* on lilac paper.

Machinery of Government: proposed departmental structure and transitional arrangements (P.70/2002) - fourth amendment.  
*Overseas Aid Committee.*  
*Attached.*

Machinery of Government: proposed departmental structure and transitional arrangements (P.70/2002) - fifth amendments.  
*Agriculture and Fisheries Committee.*  
*Attached.*

Machinery of Government: proposed departmental structure and transitional arrangements (P.70/2002) – sixth amendment.  
*Senator S. Syvret.*  
*Attached.*

Machinery of Government: proposed departmental structure and transitional arrangements (P.70/2002) – seventh amendment.  
*Senator S. Syvret.*  
*Attached.*

Projet d'Acte (200-) mettant en vigueur la Loi (2001) (Amendement No. 8) réglant la procédure criminelle.  
Logé au Greffe le 2 juillet 2002.  
*Comité de Législation.*

P.112/2002.

Projet de Loi (200-) (Amendement No. 9) réglant la procédure criminelle.  
Logé au Greffe le 2 juillet 2002.  
*Comité de Législation.*

P.113/2002.

Draft Magistrate's Court (Miscellaneous Provisions) (Amendment No. 9) (Jersey) Law 200-.  
Lodged: 2nd July 2002.  
*Legislation Committee.*

P.114/2002.

Agriculture and Fisheries: policy report 2001.  
Lodged: 2nd July 2002.

P.115/2002.

*Agriculture and Fisheries Committee.*

Agriculture and Fisheries: policy report  
2001 (P.115/2002): comments. P.115/2002  
Com.

Presented: 23rd July 2002.

*Finance and Economics Committee.*

Agriculture and Fisheries: policy report  
2001 (P.115/2002): amendment.

*Deputy P.F.C. Ozouf of St. Helier.*

*Attached.*

Public Lotteries Board: appointment of  
member. P.116/2002.

Lodged: 2nd July 2002.

*Gambling Control Committee.*

Appointments Commission: appointment of  
Chairman and Members. P.117/2002.

Lodged: 9th July 2002.

*Policy and Resources Committee.*

Public Employees Contributory Retirement  
Scheme: Committee of Management -  
appointment of chairman. P.118/2002.

Lodged: 9th July 2002.

*Finance and Economics Committee.*

Farewell Wing, former J.C.G., St. Helier:  
approval of drawings. P.119/2002.

Lodged: 9th July 2002.

*Education Committee.*

St. Helier Street Life Programme. P.120/2002.

Lodged: 9th July 2002.

*Planning and Environment Committee.*

Draft Companies (Amendment No. 6)  
(Jersey) Law 2002 (Appointed Day) Act  
200-. P.121/2002.

Lodged: 9th July 2002.

*Finance and Economics Committee.*

Draft Companies (Redemption, and  
Financial Assistance) (Jersey) Regulations  
200-. P.122/2002.

Lodged: 9th July 2002.

*Finance and Economics Committee.*

Draft Limited Liability Companies  
(Registration Fees) (No. 4) (Jersey)  
Regulations 200-. P.123/2002.

Lodged: 9th July 2002.

*Finance and Economics Committee.*

Draft Limited Liability Companies  
(Registration Fees) (Repeal) (Jersey) Law  
200-. P.84/2002.

Lodged: 21st May 2002.

*Finance and Economics Committee.*



**C.M. NEWCOMBE**

**Greffier of the States**

18th July 2002.

## **Explanatory Note regarding subordinate legislation tabled at this meeting.**

### **R & O 62/2002**

These Rules substitute Part XII of the Royal Court Rules 1992, as amended, relating to appeals to the Royal Court from administrative decisions.

The substituted Part XII provides for a more simplified procedure for the hearing of such appeals, enabling them to be dealt with by way of written pleadings, submissions and evidence provided by way of affidavit on behalf of the parties. In particular, provision is made for the hearing of such appeals to take place no later than four months from the date of service of the notice of appeal (except with the leave of the Bailiff).

The Rules contain other minor amendments of the 1992 Rules consequential upon the enactment of the new Part XII.

The Rules were made by the Superior Number of the Royal Court on 17th July 2002 and come into force on 2nd September 2002.

### **R & O 63/2002**

The *Loi* (2001) (*Amendement No. 8 réglant la procédure criminelle* ("the principal Law")) introduced a number of reforms dealing with trial by jury. The major reforms involved were brought into force by the Act of the States [R&O 153/2001] on 12th November 2001.

However, Articles 9, 11, and 13 of the principal Law were not then brought into force.

Article 9 replaced Article 29 of the principal Law which made detailed provision as to the procedure at the *tirage*. The *tirage* is the procedure by which jurors for each Assize trial are drawn at random. Instead of prescribing the detailed procedure in the principal Law, the new Article 29 provided (in translation) that-

*"The drawing of jurors for each Assize shall take place in the manner prescribed by Rules of Court which shall make provision necessary to ensure -*

*(a) that the names of the members of the jury are drawn at random; and*

*(b) that there will be a sufficient number of persons warned to serve on the jury."*

Articles 11 and 13 made other minor procedural amendments to the process of the *tirage* to ensure that the principal Law was consistent with modern practice.

These Rules of Court made pursuant to the new Article 29 of the principal Law were enacted by the Superior Number of the Royal Court on 17th July 2002 and make the necessary provision for the drawing of names of members of the jury at random and for there to be a sufficient number of persons warned to serve on the jury. They enable Articles 9, 11, and 13 of the principal Law to be brought into force. In this respect, the Legislation Committee has lodged *au Greffe* an Appointed Day Act to provide that those Articles of the principal Law come into force on 2nd September 2002.

These Rules come into force simultaneously with the coming into force of those Articles.

### **R&O 64/2002**

The purpose of this Order is to remove a number of items from export control.

The Order was made on 17th July 2002 and comes into force seven days after it was made.

**NOTIFICATION OF STANDING ORDER DECISIONS -  
FINANCE AND ECONOMICS COMMITTEE  
(delegated functions)**

17th July 2002

- (a) as recommended by the Home Affairs Committee, the lease to the Jersey Electricity Company Limited (JEC) of section pillars 821 and 822 at La Moye Prison, St. Brelade, for a period of 99 years, at a rental of £1 a year for each section pillar, payable as a lump sum at the passing of the contract. In addition, the JEC would be granted free of charge wayleave rights in association with these two section pillars and Sub-station No. 285, as illustrated on Plan No. 06L Reference P1554, dated 23rd July 2001. Each party would be responsible for its own legal costs in relation to this transaction;
- (b) as recommended by the Housing Committee, the lease to the Jersey Electricity Company Limited (JEC) of section pillar 836 and Sub-station No. 285 at La Moye Prison, St. Brelade, for a period of 99 years, at a rental of £1 a year for each of the two sites, payable as a lump sum at the passing of the contract. In addition, the JEC would be granted free of charge wayleave rights in association with this section pillar and Sub-station No. 285, as illustrated on Plan No. 06L Reference P1554, dated 23rd July 2001. Each party would be responsible for its own legal costs in relation to this transaction;
- (c) as recommended by the Housing Committee, the lease to the Jersey Electricity Company Limited (JEC) of section pillars 6684 and 6685 and Sub-station No. 628 at the Albert Pier housing development, St. Helier, for a period of 99 years, at a rental of £1 a year for each of the three sites, payable as a lump sum at the passing of the contract. In addition, the JEC would be granted free of charge wayleave rights in association with the two section pillars and Sub-station No. 628, as illustrated on Plan No. 24j Reference P1625, dated 20th September 2001. Each party would be responsible for its own legal costs in relation to this transaction;
- (d) as recommended by the Health and Social Services Committee, the renewal of the lease of the property known as The Garden Flat, Salem House, La Rue de Bas, St. Lawrence from Mr. Eric Gerald Le Feuvre for a period of three years, from 6th May 2002 to 5th May 2005, with an option to renew for a further two years, at an initial rent of £8,481.12 a year, payable quarterly in advance, subject to an annual review in line with the Jersey retail price index increase. Each party would be responsible for its own legal costs in relation to this transaction;
- (e) as recommended by the Health and Social Services Committee, the renewal of the lease of the property known as La Maisonette, Salem House, La Rue de Bas, St. Lawrence from Mr. Eric Gerald Le Feuvre for a period of three years, from 1st August 2002 until 31st July 2005, with an option to renew for a further two years, at an initial rent of £10,811 a year, payable quarterly in advance, subject to an annual review in line with the Jersey retail price index increase. Each party would be responsible for its own legal costs in relation to this transaction;

- (f) as recommended by the Health and Social Services Committee, the renewal of the lease of the property known as Bamfield, La Route d'Ebenézer, Trinity, from Jurat Arthur Philip Quérée, for a period of three years, from 1st May 2002 until 30th April 2005, with an option to renew for a further one year, at an initial rent of £17,846.40 a year, payable quarterly in advance, subject to an annual review in line with the Jersey retail price index increase. Each party would be responsible for its own legal costs in relation to this transaction;
- (g) as recommended by the Telecommunications Board, the lease of sites measuring 35 square metres, at Field No. 413, St. Martin, and Field No. 818, Trinity, from the respective Parish authorities, for a period of 99 years, for service distribution rooms to house electronic access equipment to enhance the delivery of broadband services, at a rental of £10 a year for each of the two sites, subject to the Telecommunications Board making a one-off payment of £10,000 to each Parish, payable in advance, towards the resurfacing costs of the development proposed for each site. In addition, the Telecommunications Board would be responsible for all building costs and professional fees associated with the construction of these service distribution rooms;
- (h) as recommended by the Harbours and Airport Committee, the lease to de la Haye Fish Enterprises Limited of an area measuring 722 square feet in the Victoria Pier fish processing warehouse (designated unit V12M), St. Helier, for a period of nine years, commencing 1st July 2002, at an initial rent of £2,879.86 a year, representing a rate of £3.99 a square foot, subject to annual review in line with the Jersey retail price index;
- (i) as recommended by the Harbours and Airport Committee, the lease to Midland Airport Services Limited, trading as Aviance, of an area measuring 120 square feet in the main passenger pier at Jersey Airport (designated Airport Letting B92B), St. Peter, for the period 1st June 2002 to 31st March 2006, at an initial rent of £1,140 a year, representing a rate of £9.50 a square foot, subject to review on 1st January each year in line with the Jersey retail price index, on the same terms and conditions as the company's other leases;
- (j) as recommended by the Harbours and Airport Committee, the lease to British European Airways (UK) Limited of an area measuring 300 square feet in the main passenger pier at Jersey Airport (designated Airport Letting B92A), St. Peter, for the period 1st June 2002 to 31st March 2006, at an initial rent of £3,189.20 a year, representing a rate of £10.63 a square foot, subject to review on 1st January each year in line with the Jersey retail price index; on the same terms and conditions as the company's other leases.

**NOTIFICATION OF ACCEPTANCE OF TENDER UNDER RULE 5 OF THE PUBLIC FINANCES  
(GENERAL) (JERSEY) RULES 1967, AS AMENDED -  
FINANCE AND ECONOMICS COMMITTEE**

17th July 2002

1. the Education Committee has accepted the lowest tender received for the development of Field Nos. 131 and 131A, St. Clement, as sports fields as part of phase I of the redevelopment of Le Rocquier School, namely that submitted by Jayen Limited in the sum of £582,417.00 for a contract period of 24 weeks -

	<u>Contractor:</u>		<u>Amount:</u>	<u>Contract period</u>
M.J. Gleeson Limited	(Jersey)		£598,694.00	12 weeks
Briron Limited			£614,862.00	20 weeks
D.B. Cummins Limited	(Jersey)		£666,445.33	28 weeks

## QUESTION PAPER

(See Item G)

Deputy G.C.L. Baudains of St. Clement will ask the following questions of the President of the Harbours and Airport Committee -

- “1. With regard to the recently-erected fencing on the New North Quay, would the President –
  - (a) advise whether the Committee has discussed the issue in the light of the States decision relating to it?
  - (b) state what decisions the Committee has made as a result and the timetable involved?
  - (c) give details of what alternative parking arrangements, if any, the Committee will implement in the short term to replace those lost by the present fence?
  
2. Will the President –
  - (a) give full details of the proposed fencing-off of the Victoria Pier?
  - (b) give assurances that there will be full consultation with interested parties before any plans are finalised?
  - (c) advise members of any other areas under the Committee’s administration for which fencing to restrict public access is being considered?
  
3. One of my questions to the President in a letter dated 4th April 2002 was whether the then Harbour Master still had any connections with the firm who previously employed him. Would the President state how my letter came to be in the former Harbour Master’s possession?

Senator P.V.P. Le Claire will ask the following question of the President of the Agriculture and Fisheries Committee -

- “1. During the Island Plan debate on 11th July 2002 the Connétable of St. Mary raised concerns and questions in relation to the activities at the composting site at Crabbé, St. Mary, and transport to and from the site, and in particular informed the Assembly that the temporary permit for six months had expired in 1997.

Would the President inform members –

- (a) whether fees are derived or money collected in relation to the operations occurring at Crabbé (such as tipping charges) and if so, would the President explain the charges, and advise the Assembly of the amounts collected over the last three years?
- (b) how many times in the last 18 months have –
  - (i) private companies
  - (ii) the Departmenttransported sea lettuce from the Island’s beaches to Crabbé?
- (c) how many tonnes or lorry loads in total have been taken to Crabbé during this period, and give an indication of the frequency of delivery?
- (d) of the cost associated with the transport of sea lettuce to Crabbé and which vote the cost was paid from?
- (e) in the case of transport by private companies, what specific instructions were given on how the sea lettuce should be removed and transported?
- (f) has sea lettuce been removed at the request of any other Committee or parish, and if so, did the Committee or Parish from whom the request originated assist with the removal?”

Deputy R.G. Le Hérisier of St. Saviour will ask the following question of the President of the Industries Committee -

- “(a) Would the President explain the criteria used when granting a licence to Clinton Cards to open a retail outlet in St. Helier?
- (b) How was it determined that further competition was desirable in this field?
- (c) How many staff were requested?
- (d) How many staff will come from outside the Island?”

Senator P.V.F. Le Claire will ask the following question of the President of the Planning and Environment Committee -

“During the Island Plan debate on 17th July 2002 the Connétable of St. Mary raised a number of concerns over the composting site at Crabbé, St. Mary and the operations currently being undertaken there.

Would the President inform members –

- (a) whether the Committee has investigated alternative sites, if so, which were identified as suitable?
- (b) of the nature of the permit relating to the composting site at Crabbé, any conditions attached to the permit and whether they are being complied with and when the permit will expire?
- (c) whether there are any difficulties relating to the current permit?”



Deputy R.G. Le Hérisser of St. Saviour will ask the following question of the President of the Public Services Committee -

“Would the President advise members –

- (a) what options were considered prior to announcing the termination, in September 2002, of school bus services to the two Colleges?
- (b) would the President outline the alternatives which will be put in place, should this decision be implemented, and assess to what extent they can meet current and anticipated demand?”

Deputy P.N. Troy of St. Brelade will ask the following question of the President of the Public Services Committee -

“On 16th July 2002 the President referred to the cost of the school bus service as £1,430,922 for the year 2001. Would the President advise members –

- (a) of the annual cost of the service provided to Jersey College for Girls and Victoria College for the year 2001 and an estimate of the cost for 2002?
- (b) of the number of children affected by the cancellation of the service both to Jersey College for Girls and Victoria College.
- (c) of the estimated number of seats occupied on journeys to and from Jersey College for Girls and Victoria College in a year?
- (d) of the number of buses used daily to transport children to the two schools?
- (e) of the number of buses available for the provision of the total school bus service in 2001 and 2002, and if the number of buses available has declined, whether any saving was made when negotiating with the service provider for 2002 and whether any attempt was made by the Committee to obtain value for money whilst ensuring an adequate provision of service?”
- (f) on the negotiations with the Finance and Economics Committee to ensure adequate funding for the provision of the school bus service and advise whether an approach was made to that Committee for additional funds prior to cancelling the bus service to these two colleges?

The Deputy of St. John will ask the following question of the President of the Public Services Committee -

“On 17th April 2002 the Committee presented a report to the States entitled The St. Helier Surface Water Link and Storage Tank Contract (‘the cavern’): Report – Volume 1 (R.C. 14). In that report there is mention of a Public Services employee who acted as the impartial engineer on the civil engineering project known as the cavern, prior to the appointment of the department’s Chief Executive during 1996. Would the President –

- (a) inform members on what grounds the Committee

made the decision not to name this former Director of Engineering?

- (b) confirm that this officer took voluntary early retirement?
- (c) advise on the Committee's policy on naming former employees in reports to the States?"

MACHINERY OF GOVERNMENT: PROPOSED DEPARTMENTAL STRUCTURE AND TRANSITIONAL ARRANGEMENTS (P.70/2002) – AS AMENDED BY THE AMENDMENTS OF THE POLICY AND RESOURCES COMMITTEE

**PROPOSITION**

**THE STATES are asked to decide whether they are of opinion -**

to refer to their Act dated 28th September 2001, in which they approved reforms to the machinery of government and agreed that not more than ten departments of government should be established, each headed by a minister, and -

(a) to agree that there should be ten departments of government in the ministerial system, with the responsibilities as described in Appendix 2 of the report of the Policy and Resources Committee, dated 25th April 2002, [except that in the said Appendix 2 –

(a) in Section 1.7.2 the words “*Health and Safety Inspectorate (currently with the Employment and Social Security Department)*” shall be deleted;

(b) for Section 1.10 the revised Section 1.10 set out in the Appendix to the report of the Policy and Resources Committee dated 8th July 2002 shall be substituted;

(c) in Section 1.11.1 for the words “*the tax/benefit interface, and overall policy on the Social Security Funds*” there shall be substituted the words “*mutual responsibility with the Social Security Department for the tax/benefit interface*”<sup>[1]</sup>.

as follows -

- (i) Chief Minister’s Department,
- (ii) Economic Development,
- (iii) Education, Sport, and Culture,
- (iv) Environment,
- (v) Health and Social Services,
- (vi) Home Affairs,
- (vii) Housing,
- (viii) Public Services,
- (ix) Social Security,
- (x) Treasury and Resources

(b) to agree that in the transitional period, from the appointment of Committees in December 2002 until the introduction of the ministerial system, the number of committees of the States should be reduced and appointed in the order as described in Appendix 3 of the report of the Policy and Resources Committee dated 25th April 2002. [except that -

(i) in Section 1.3 of the said Appendix, the words ‘*Committee for Postal Administration*’ shall be deleted in item 5 of the Table;

(ii) after item 11 in the Table there shall be inserted the following item -

12.	Committee for Postal	(No change)	Will become an incorporated body
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Administration		
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(iii) renumber items 12 and 13 as 13 and 14 respectively]<sup>[2]</sup>

and to request the Privileges and Procedures Committee to bring forward for approval the necessary Transfer of Functions Acts and amendments to the Standing Orders of the States of Jersey to give effect to this decision.

## POLICY AND RESOURCES COMMITTEE

MACHINERY OF GOVERNMENT: PROPOSED DEPARTMENTAL STRUCTURE AND TRANSITIONAL ARRANGEMENTS (P.70/2002) - FOURTH AMENDMENT

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In paragraph (a) after the words “dated 25th April 2002,” insert the words -

“except that in the said Appendix 2 -

- (i) in Section 1.2.2 the words “*Overseas Aid (with an Advisory Board to be established under the political responsibility of the Chief Minister and the Council of Ministers)*” shall be deleted;
- (ii) after Section 1.12 there shall be inserted the following Section -

“1.13. **Overseas Aid**

1.13.1 An Overseas Aid Commission, reporting directly to the States, will be established outside the executive structure of government to manage the overseas aid function. The Chairman of the Commission will be a member of the States appointed by the States. There will be six other members appointed by the States, three of whom shall be members of the States and three of whom shall be non-States members.

1.13.2 Funding for Overseas Aid will be agreed by the States and reviewed every 5 years to ensure that appropriate funding is provided for the Commission.

1.13.3 Detailed proposals and terms of reference for the Commission will be brought forward by the Overseas Aid Committee during the transitional period. (Draft terms of reference are set out in the Appendix to the report of the Overseas Aid Committee dated 23rd July 2002.” ”

## OVERSEAS AID COMMITTEE

### Report

The Overseas Aid Committee has met with a delegation of the Policy and Resources Committee to discuss the proposals for the administration of overseas aid under the Ministerial system and is grateful to the Policy and Resources Committee for the time it has given to consider the matter.

The success of overseas aid in the past 34 years can be in large measure attributed to the work done and time given by the several Overseas Aid Committees and the voluntary workers who have, over that period, given of their time free of charge and on many occasions at very short notice to deal with, in particular, emergency and disaster aid.

It is significant that in a recent letter (29th May 2002) to the Honorary Executive Officer of the Overseas Aid Committee (Mr. Leslie Crapp) PLAN UK wrote -

“We are extremely appreciative of the swift reactions to these emergencies by the Jersey Overseas Aid without which it would not have been possible to organise the food relief programmes that are so necessary to avoid widespread disease and starvation.”

The Overseas Aid Committee is of the strong view that the current form of administration is positive, able to react quickly to appeals for emergency aid and is extremely thorough in its allocation of funds for grant aid and community work projects.

In simple terms it sees no purpose in changing the current administration and fears that its purpose, focus and sympathetic

approach will not be so readily available in the bureaucracy of ministerial government notwithstanding the desire of a Minister or of the Chief Minister to be so focussed. The demands, particularly in the early years, of ministerial government will not, in the estimation of the Overseas Aid Committee, allow this.

The Committee proposes that an Overseas Aid Commission be established which will work on similar lines to the Jersey Arts Trust and The Jersey Heritage Trust as provided in paragraph 1.4.2. of Appendix 2 of the Report to the Machinery of Government: proposed departmental structure and transitional arrangements (P.70/2002).

In general terms the Overseas Aid Committee sees the Terms of Reference of a Commission to be in principle as hereunder but subject to review during the transitional period.

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

23rd July 2002

**STATES OF JERSEY**  
**OVERSEAS AID COMMISSION**

**Draft Terms of Reference**

1. The Commission will be established to administer the monies voted annually by the States of Jersey for overseas aid and shall have independent status under the sponsorship of the States. The Commission shall have lead responsibilities for the allocation of all funds voted by the States for overseas aid.
2. The Commission shall be established by the States who will appoint a Chairman, who shall be an elected member of the States, and six members, three of whom shall be elected members of the States and three shall be non-States members. The Chairman shall have a casting vote in the event of an equality of votes.
3. The Quorum at any meeting of the Commission shall be four - two of whom shall be States members.
4. The Commission shall have the power to co-opt additional members but such co-opted members shall not have a vote.
5. The policies and procedures of the Commission shall be reviewed annually by the Commission to ensure that the funds allocated are used in the most effective and economical manner and shall be subject to the approval of the States.

The Mission of the Commission shall be -

- to join with others in reducing poverty in poorer countries by making contributions by way of grants (including to Jersey Charities working abroad), emergency and disaster relief, and promoting community work projects.
- In particular the Commission will contribute to -
  - (a) basic health care;
  - (b) medical care;
  - (c) effective education;
  - (d) safe drinking water and food security;
  - (e) projects to assist self-sufficiency;
  - (f) emergency and humanitarian needs;
  - (g) working towards the elimination of child labour and abuse.
- The Commission will pursue this by -
  - (a) working closely with the private and voluntary sectors;
  - (b) ensuring the consistency of policies affecting poorer countries;
  - (c) using recourses efficiently and effectively.

The Commission in allocating monies shall, until otherwise sanctioned by the States, work within the following guidelines -

- Grant Aid -
  - (a) In any one year there shall be a limit of a maximum of 90% of the total budget allocated to Grant Aid.
  - (b) The maximum allocated to one project shall be £100,000.
  - (c) The Commission may grant aid for three year projects but there shall be an upper limit of £250,000 for

each project.

- Emergency and Disaster Relief Funding -
  - (a) In any one year there shall be a limit of a maximum of 20% of the total budget allocated to Emergency and Disaster Relief Funding.
  - (b) Grants to individual projects (or agency) shall be limited to a maximum of £50,000 and a total spend of £150,000 on any one disaster.
- Community Work Projects -
  - (a) The Commission shall promote and encourage parties of volunteers from Jersey to work in developing countries.
  - (b) In any one year there shall be a limit of a maximum of 5% of the total budget allocated to Community Work Projects.
- Grants to Jersey Charities working abroad -
  - (a) In any one year there shall be a limit of a maximum of 2% of the total budget allocated to grants to Jersey Charities working abroad.
  - (b) Grants shall be made on the basis of matching specific fundraising on a £ for £ basis.
  - (c) The grants shall be subject to a maximum of £5,000 per project.

The Commission shall prepare an Annual Report and audited accounts for submission to the States.



MACHINERY OF GOVERNMENT: PROPOSED DEPARTMENTAL STRUCTURE AND TRANSITIONAL ARRANGEMENTS (P.70/2002) - FIFTH AMENDMENTS

(1) *In paragraph (a) after the words “dated 25th April 2002,” insert the words -*

*“except that in the said Appendix 2 -*

(i) *at the beginning of Section 1.5 the following new paragraph shall be inserted -*

*‘1.5.1 The principle of separating regulatory and operational functions, as in paragraph 2.4 of the Report of the Policy and Resources Committee dated 25th April 2002, should apply with regard to responsibilities for the protection and enhancement of the natural environment of the Island.*

(ii) *in the said Section 1.5, after the new paragraph 1.5.1 referred to in (i) above, the following new paragraphs shall be inserted -*

*‘1.5.2 The Policy and Resources Committee should be requested to bring forward, as soon as possible during the transitional period, proposals to establish an Environmental Commission, outside the departmental structure, to undertake the necessary regulatory functions in these areas - in order to ensure that the proposals concerning future departmental structure clearly separate regulatory from operational functions with regard to responsibilities for the protection and enhancement of the natural environment of the Island,*

*The functions of the Environmental Commission will include the necessary regulation of all aspects of the natural environment, including (referring to paragraphs 4.5.3 of the Report of the Policy and Resources Committee dated 25th April 2002) -*

- *environmental regulation;*
- *regulation of environmental aspects of energy and transport policy;*
- *land use regulation;*
- *water resource regulation;*
- *waste management regulation.*

*The functions of the Environmental Commission will also include the development of an overarching strategy with regard to the natural environment of the Island, with which operational departments would be expected to comply.’*

(iii) *in Section 1.5 for the word ‘Environment’ substitute the word ‘Planning’;*

(iv) *in the original paragraph 1.5.1 -*

(a) *for the words ‘Environment Department’ substitute the words ‘Planning Department’;*

(b) *delete the following words -*

- *environmental policy and regulation;*
- *environmental aspects of energy and transport policy;*
- *water resources regulation;*

- waste management regulation.
- (c) *for the word 'regulation' after the words 'land use policy and' substitute the word 'control'; and*
- (d) *renumber paragraph 1.5.1 as 1.5.3;*
- (v) *in paragraph 1.3.1, after the words 'Agriculture and Fisheries' delete the words '(save for marine environmental responsibilities)'.*
- (2) *in paragraph (a)(iv) of the proposition for the word 'Environment' substitute the word 'Planning' and make consequential changes to the name of the Department as appropriate in Appendices 2 and 3.*

## AGRICULTURE AND FISHERIES COMMITTEE

### REPORT

#### 1 Introduction

- 1.1 This amendment proposes a number of changes to Proposition P.70/2002 with regard to responsibilities for protecting and enhancing the natural environment of the Island.
- 1.2 These changes are designed to achieve the necessary separation of regulatory and operational functions. This separation is one of the three key principles referred to in the report accompanying the Proposition (paragraph 2.4) but it is not achieved in the Policy and Resources Committee proposals for department structure with regard to responsibilities for the environment. Contrary to this principle the Policy and Resources Committee proposals include significant regulatory, operational and policy responsibilities in a single department.
- 1.3 The important objective of separating regulatory and operational functions can best be achieved by establishing an Environmental Commission that would take responsibility for regulatory functions. In addition the Commission would influence the policies of all operational departments that have responsibilities with regard to the natural environment by developing and maintaining an over-arching strategy with which operational departments would be expected to comply.

#### 2 Advantages of an Environmental Commission

The establishment of an Environmental Commission would have a number of important advantages -

- a. It would demonstrate that protecting and enhancing the natural environment of the Island is to be given very high priority.
- b. It would achieve the necessary separation of regulatory and operational functions.

This key principle needs to be satisfied if the risk of self-regulation (the poacher-gamekeeper issue) is to be avoided. Placing the responsibility for regulation with the Commission would also avoid the prospect of one government department prosecuting another.

- c. It would ensure best use of the Island's limited environmental skills and resources

Because the Commission would have a complete overview, duplication of effort and unnecessary costs would

be avoided. It would also (see paragraph 3.1 below) render unnecessary the creation of the proposed new Environment Department, so avoiding the extra costs involved.

### **3 Consequences of establishing an Environmental Commission**

3.1 The establishment of an Environmental Commission, with the responsibilities outlined in paragraph 5 below, would have a number of consequences for departmental structure, as stated in the Amendment:

- a. All regulatory functions currently proposed for the Environment Department (see paragraph 1.5.1 of Appendix 2 of Proposition 70/2002) would be assumed by the Environmental Commission.
- b. Most of the remaining functions listed in paragraph 1.5.1 are aspects of planning and would become the responsibility of a Planning Department. This department would have responsibility only for those environmental issues that are directly related to planning. The Planning Department would relate to the Environmental Commission in the same way as other operational departments (see paragraph 7 below).
- c. The other functions listed in paragraph 1.5.1 are operational functions that should either stay with, or move to, those departments whose responsibilities directly affect the relevant aspects of the natural environment. Significantly, the Policy and Resources Committee acknowledges this to be the best way forward with regard to the Proposition concerning Public Services (paragraph 4.5.2). The same logic applies, however, to the several other departments with environmental responsibilities. Thus, referring to the operational functions listed in paragraph 1.5.1, 'environmental aspects of energy and transport policy' would stay with the departments currently responsible. The only remaining operational function listed, namely 'environmental services and habitat management' could stay with the Planning Department, although not many of these functions actually need to be part of a planning department. The Policy and Resources Committee is invited to consider, during the transition period, the most appropriate department to have responsibility for these functions.
- d. Since this accounts for all the functions proposed for the Environment Department, there would be no need for that department to be created.

4 The following paragraphs indicate the intended responsibilities of the Environmental Commission, how it would relate to government, how it would relate to operational departments, how it would operate in relation to ministerial responsibility etc.

### **5 Responsibilities of the Environmental Commission**

5.1 The Commission would exist outside the framework of operational departments and would have the following responsibilities:

- developing and implementing an appropriate regulatory framework;
- developing and maintaining an over-arching environmental strategy for the natural environment of the Island as a whole, addressing all significant environmental issues;
- monitoring the implementation, by operational departments, of their environmental policies and monitoring the outcomes.

### **6 The relationship of the Environmental Commission to government**

6.1 The Commission would be established by Statute, as an autonomous body, with a defined constitution, terms of reference and responsibilities. The Commission would then act independently of government, developing its regulatory framework and over-arching strategy and establishing the necessary working relationships with government departments. It would not formally report to a government department but could, where it is in the public interest to do so, be guided or given general directions by a minister with regard to the work of the Commission. The Commission would have a duty to have regard to any guidance and to follow any directions given to it. The terms of reference and responsibilities of the Commission could be amended by the States.

## 7 The Environmental Commission and ministerial responsibility

7.1 Operational departments, under ministerial control, are those with operational responsibilities with regard to the natural environment. Thus several Ministers will have responsibilities with regard to the natural environment. Ministers are responsible for developing policies and for their implementation and this applies to those aspects of the natural environment for which they are responsible. Moreover, all government departments should be expected, in formulating their policies, to consider the potential impact of these policies on the natural environment and should therefore have regard to the Commission's over-arching strategy.

7.2 The operation of the Commission would not cut across ministerial responsibility. It should not take away from operational departments their responsibilities concerning the natural environment or for developing environmental policies and implementation strategies. Departmental policies would, however, be expected to comply with the Commission's over-arching strategy and regulation.

7.3 The Commission would require those departments:

- to develop and maintain policies and implementation strategies, consistent with the Commission's over-arching environmental strategy, covering their particular areas of responsibility;
- to review their policies and strategies periodically in consultation with the Commission;
- to implement their policies and strategies;
- to report regularly to the Commission on the implementation of the departmental policies and strategies and the outcomes from implementation.

## 8 Efficiency of operations

8.1 The operational departments would not need to duplicate the 'strategic' expertise that the Commission would have, because they would be focused on their operational responsibilities. In developing their policies, however, departments could request guidance from the Commission on strategic issues.

8.2 The departments, under ministerial control, would be responsible for developing appropriate policies and implementation strategies, discussing them with the Commission, and then for implementing them. The risk of operational departments duplicating one another's roles or resources would be minimised by the fact that the Commission would have a complete overview of operational responsibilities and activities and so would ensure, through its regulatory and advisory roles (and possibly also through service level agreements), that duplication did not occur. Responsibilities for operational roles and activities would, however, rest with ministers.

## 9 The Commission's expertise and size

9.1 The Commission would be a small organisation - because it would not be undertaking operational roles. The Commission would need to have high level knowledge and expertise in-house concerning all local natural environmental issues, and also concerning international developments and obligations, but this role would require only a small number of people. An important responsibility of the Commission would be to monitor the implementation of policies by operational departments and to monitor their outcomes, but this would not necessarily require significant resources within the Commission itself. Any detailed monitoring required could, and probably should, be undertaken by other independent organisations, from within the Island or elsewhere, operating under contract with the Commission. This is likely to be more effective and less expensive than directly employing people (a 'standing army') to undertake monitoring. The Commission would need in-house resources in connection with its regulatory functions, but here again the amount of resource could be small.

9.2 **Manpower implications:** Most of the resources required by the Commission could be drawn from staff with the necessary expertise already employed in States departments.

9.3 **Financial implications:** Although there is potential for income to the Commission from its regulatory functions (in connection, for example, with the Water Pollution Law, the proposed Water Resources Management Law and the

proposed Waste Management Law), the Commission would require States funding. On the other hand, the States would not incur the costs involved in establishing and running a new government department. Because the Commission would have a complete overview of operational responsibilities and resources, it would ensure that duplication of work and costs did not occur. Thus the Commission 'model' would certainly result in lower overall cost to the States than the alternatives.

## **10 Implications of pursuing the Environmental Commission 'model'**

10.1 The establishment of an Environmental Commission would, because of its regulatory functions and its influence on the environmental policies of Departments, have significant implications for the operational departments that currently have a range of responsibilities with regard to the natural environment. For this reason the Environmental Commission would clearly need to be established before any changes were made with regard to operational departments. The Commission's over-arching strategy will influence the operational functions required: this strategy and the regulatory framework need to be developed first, after which the environmental functions of the operational departments will be decided or confirmed.

10.2 In deciding or confirming the functions of operational departments it will be necessary to recognise -

- that several departments currently have environmental responsibilities at the operational level;
- that these responsibilities are very diverse in nature;
- that these responsibilities are often closely intertwined with other (non-environmental) functions;
- that they are often carried out by the same staff - thereby achieving efficiency gains.

The Environment Commission model fully recognises these points, whereas the proposed Environment Department does not. The Commission would, however, be in a unique position to recommend changes of approach and responsibilities at departmental level in the interests of efficiency and cost savings.

10.3 The establishment of an Environmental Commission would lead, with regard to responsibilities for the natural environment, to a different departmental structure from that indicated in the Proposition. The model based on an Environmental Commission, as outlined in this amendment, has clear advantages. It establishes high priority for environmental issues, it achieves the separation of regulatory and operational functions, it would result in more effective use of skills and other resources, and it would reduce costs.

MACHINERY OF GOVERNMENT: PROPOSED DEPARTMENTAL STRUCTURE AND TRANSITIONAL  
ARRANGEMENTS (P.70/2002) - SIXTH AMENDMENT

- (1) *In paragraph (a) after the words “dated 25th April 2002,” insert the words -*
- “except that in the said Appendix 2 -
- (i) *at the end of Section 1.6.1, after the word ‘care.’ insert the following sentence “The Department shall continue to have responsibility for the Environmental Health Department, which shall be re-named the ‘Health Protection Department’”;*
  - (ii) *in Section 1.5.1, after the words “environmental policy and regulation” insert the words “except those functions presently undertaken by the Environmental Health Department””*

SENATOR S. SYVRET

## **REPORT**

The purpose of this amendment is to, as far as is practical, avoid an obvious conflict of interest within the proposed Environment Department, and to resolve a misunderstanding as to the purpose and function of the present Environmental Health Department.

The factors, considerations and decisions relating to 'land use policy' and 'planning and development control' may well, from time to time, be in conflict with what is, in essence, a public health protection function, as presently exercised by the Environmental Health Department. There may be overwhelming, pragmatic planning and land use reasons for decisions to, for example, build a new incinerator, locate a composting site in a particular location, or permit the use of disused quarries for toxic waste disposal. In such cases the public must be able to rely upon the protection of a separate health protection function that will not be under the same pressures as the planning function.

The name 'Environmental Health Department' has probably been responsible for the common belief that its work is simply 'environmental' and can therefore be rolled up in an Environment Ministry. The principal function of this Department is the protection of human health. It is proposed to rename it the Health Protection Department, which more accurately reflects its work.

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



MACHINERY OF GOVERNMENT: PROPOSED DEPARTMENTAL STRUCTURE AND TRANSITIONAL  
ARRANGEMENTS (P.70/2002) - SEVENTH AMENDMENT

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*In paragraph (a) after the words “dated 25th April 2002,” insert the words -*

“except that in the said Appendix 2 -

- (i) in Section 1.2.2 the words “*Jersey’s Statistics (including responsibility for the Census)*” shall be deleted;
- (ii) after Section 1.12 there shall be inserted the following Section -

“1.13. **Independent Statistics Office**

1.13.1 An Independent Statistics Office will be established, independent from the Executive, and under the supervision of a Board appointed by the States, comprising a Chairman who shall be a member of the States, and two other members of the States, none of whom shall be members of the Executive, together with 5 other persons.

1.13.2 The Privileges and Procedures Committee will be requested, in consultation with the public and other Committees as appropriate, to bring forward for approval detailed proposals on the establishment of this Independent Statistics Office.” ”

SENATOR S. SYVRET

## **Report**

The purpose of this amendment is self explanatory and self evident. The Policy and Resources Committee is proposing that the Chief Minister's Department shall have responsibility for Jersey's statistics. In modern democratic societies it has long been acknowledged that it is essential that raw data and statistics derived from such data, which are often used to inform and drive government policy, must be independently produced and be seen to be independent.

It is nothing short of bizarre that in 2002, during a period of government modernisation, the Policy and Resources Committee should seriously be suggesting that responsibility for Jersey's statistics should reside with the central executive. Imagine if responsibility for the UK's statistics were to reside with Downing Street and the attendant spin doctors! Or perhaps the scrapping of the Office of National Statistics and its relocation to Millbank? Such a state of affairs would not be contemplated, or tolerated, for one moment, yet such central executive control over the nature of statistics produced is, in effect, what the Policy and Resources Committee is asking the Island to accept.

The Privileges and Procedures Committee is the most appropriate body to bring forward the detailed proposals, as it is already charged with responsibility for bringing forward proposals for scrutiny which must be independent of the Executive. A similar need for independence applies in this case.

The scope and range of statistics needed probably needs to be increased so there may be some need for additional manpower and resources. This requirement is unlikely to be large as the current statistics function, presently controlled by the Policy and Resources Committee, would simply be transferred to Independent Statistics Unit.

*For paragraphs (b), (c) and (d) of the proposition substitute the following paragraph -*

“(b) to agree that the policies set out in paragraph (a) shall be implemented within the existing cash limit of the Agriculture and Fisheries Committee for 2003, and the provisional cash limit for 2004, except that the Committee shall be permitted to bring forward for approval by the Finance and Economics Committee proposals for additional funds, if required, to meet the single non-recurring cost of assisting with structural reform, or a reduction in the overall size, of the agricultural industry, to enable the Committee to work within the said cash limits whilst pursuing the strategic policies set out in the strategy.

DEPUTY P.F.C. OZOUF OF ST. HELIER

### **Report**

It is difficult **not** to agree with many of the basic policy framework set-out in the Agriculture and Fisheries: policy report 2001. The re-aligning financial aid from production incentives to environmental outputs is amongst other things, warmly welcomed.

The amendment is designed to ensure that there is certainty and clarity in terms of the financial arrangements. The Agricultural and Fisheries Committee originally published significantly higher financial costs for the same strategy. These were subsequently amended twice. The strategy before the States does not refer to any calendar years. Cash limits have already been set for 2003 and provisional ones set for 2004. The Committee must be realistic and certain in terms of the funding requests in the short and longer term. I am concerned that the States could be placed in a position of approving part (a) of the proposition whilst rejecting all the other parts. This would leave the States and industry in an uncertain position.

Additional funding could be required and made available for one-off re-structuring plans outside the cash limits through allocations for urgent and unforeseen expenditure from the General Reserve. One example of which is that which has already been approved for the dairy sector. It is argued that funding re-structuring in the short term will also allow the Committee to live within available resources rather than seeking re-occurring increased cash-limits in the longer term.

Financial implications for the amendment are self-explanatory.

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[1] Words in brackets inserted by P.70/2002 Amd (3)

[2] Words in brackets inserted by P.70/2002 Amd(2)