

STATES OF JERSEY

r

DRAFT STATES OF JERSEY (POWERS, PRIVILEGES AND IMMUNITIES) (SCRUTINY PANELS, PAC AND PPC) (AMENDMENT) (JERSEY) REGULATIONS 200

Lodged au Greffe on 9th September 2008
by the Privileges and Procedures Committee

STATES GREFFE



Jersey

DRAFT STATES OF JERSEY (POWERS, PRIVILEGES AND IMMUNITIES) (SCRUTINY PANELS, PAC AND PPC) (AMENDMENT) (JERSEY) REGULATIONS 200

REPORT

Introduction

On 4th July 2007 the States adopted the Draft States of Jersey (Amendment No. 3) Law 200 (P.60/2007) which inserted an enabling power in the States of Jersey Law 2005 to allow the States to make Regulations to confer similar legal immunity on technical advisers to that which is currently given to States members and witnesses appearing before the PAC, Scrutiny Panels, or Scrutiny Sub-Panels. The Law was registered in the Royal Court earlier in 2008 and these Regulations are now being brought to give final effect to the decision of the States.

Background

During the shadow scrutiny period some technical advisers appointed by the shadow panels took part in questioning at hearings. In the assessment of the shadow scrutiny period it was shown that members had found it beneficial for advisers to be able to ask questions directly of witnesses at hearings. It should be noted that such questions were generally only asked of independent or technical witnesses and not of States Members.

When the Chairmen's Committee began to draft the Code of Practice for Scrutiny Panels in 2006 it received advice that it was inappropriate that advisers should be permitted to ask questions under the new system of 'full' scrutiny as, not being Panel members, they would not be covered by any immunity under the States of Jersey Law 2005 and could therefore be exposing themselves to legal action. The Chairmen's Committee nevertheless considered that there were likely to be occasions when, on technical issues, an adviser might be better placed to question a witness rather than being obliged to simply pass a note to a member of the Panel who then, in practice, would simply need to read out the question.

Having discussed the matter with the Chairmen's Committee, PPC agreed that amendments should be made to legislation to allow advisers to benefit from appropriate legal immunity when questioning witnesses on behalf of a Panel. Unfortunately the necessary legislation had to be brought in 2 stages as immunity is conferred on witnesses appearing before Panels by Regulation and there was no enabling power in the States of Jersey Law 2005 to allow Regulations to be made to confer similar immunity on technical advisers appointed by Panels. As mentioned above, the enabling power was inserted in the Law by the amendment approved in 2007 and these Regulations are simply the final piece of legislation required to confer the actual immunity.

Financial and manpower implications

There are no additional financial or manpower implications for the States arising from the adoption of these draft Regulations.

Explanatory Note

These Regulations provide that persons appointed by a committee or panel to advise on technical matters have immunity from civil or criminal liability when asking any questions of persons appearing before a scrutiny panel, a sub-panel or the PAC.



Jersey

DRAFT STATES OF JERSEY (POWERS, PRIVILEGES AND IMMUNITIES) (SCRUTINY PANELS, PAC AND PPC) (AMENDMENT) (JERSEY) REGULATIONS 200

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Article 49 of the States of Jersey Law 2005^[1], have made the following Regulations –

1 Article 8A inserted

After Regulation 8 of the States of Jersey (Powers, Privileges and Immunities) (Scrutiny panels, PAC and PPC) (Jersey) Regulations 2006^[2] there shall be inserted the following Regulation –

“8A Immunity of technical adviser questioning persons appearing before the PAC, a scrutiny panel, or a sub-panel

- (1) A question shall not be admissible in evidence against a technical adviser in any civil or criminal proceedings if that technical adviser asked the question of a person appearing before the PAC, a scrutiny panel, or a sub-panel established under standing order 139.
- (2) Paragraph (1) shall not apply to any part of a question constituting an assertion that is known to be untrue by the person making it.
- (3) For the purpose of this Regulation a technical adviser is a person appointed by any committee or panel established by standing orders to advise the committee or panel on any technical matter.”

2 Citation and commencement

These Regulations may be cited as the States of Jersey (Powers, Privileges and Immunities) (Scrutiny panels, PAC and PPC) (Amendment) (Jersey) Regulations 200- and shall come into force 7 days after they are made.

[1]

chapter 16.800

[2]

chapter 16.800.25