



Jersey

## STATES OF JERSEY (POWERS, PRIVILEGES AND IMMUNITIES) (SCRUTINY PANELS, PAC AND PPC) (JERSEY) REGULATIONS 2006

### Arrangement

#### Regulation

<b>PART 1</b>	<b>3</b>
PRELIMINARY	3
1 Interpretation.....	3
2 Application to members of the States .....	3
<b>PART 2</b>	<b>3</b>
SCRUTINY PANELS AND THE PAC	3
3 Power of scrutiny panel or the PAC to issue summons .....	3
4 Procedure for issue of summons by a scrutiny panel or the PAC.....	4
5 Challenging a summons issued by a scrutiny panel or the PAC.....	4
6 Review of challenge of summons issued by a scrutiny panel or the PAC.....	5
7 Challenge and review of question put by a scrutiny panel or the PAC .....	5
8 Privileges and immunity of person appearing before or producing documents to a scrutiny panel or the PAC.....	6
9 Immunity of member of the PAC who is not a member of the States .....	6
10 Application of Part 2 to sub-panel etc of a scrutiny panel.....	6
<b>PART 3</b>	<b>7</b>
INVESTIGATION BY PPC OF BREACH OF CODE OF CONDUCT	7
11 Application of Part 3.....	7
12 Power of the PPC to issue summons.....	7
13 Procedure for issue of summons by the PPC .....	7
14 Challenging a summons issued on behalf of the PPC.....	8
15 Review of challenge of summons issued on behalf of the PPC.....	8
16 Challenge and review of question put by the PPC.....	9

17	Privileges and immunity of person appearing before or producing documents to the PPC.....	10
18	Immunity of member of panel acting for the PPC who is not a member of the States.....	10
19	Application of Part 3 to panel acting for the PPC .....	10

**PART 4** **10**

---

MISCELLANEOUS AND CLOSING 10

20	Personal service .....	10
21	Ordinary service.....	11
22	Offences .....	11
23	Citation and commencement .....	11



Jersey

## **STATES OF JERSEY (POWERS, PRIVILEGES AND IMMUNITIES) (SCRUTINY PANELS, PAC AND PPC) (JERSEY) REGULATIONS 2006**

*Made*

*4th April 2006*

*Coming into force*

*11th April 2006*

**THE STATES**, in pursuance of Article 48 of the States of Jersey Law 2005<sup>1</sup>, have made the following Regulations –

### **PART 1**

#### **PRELIMINARY**

#### **1 Interpretation**

Expressions defined in standing orders have the same meaning in these Regulations.

#### **2 Application to members of the States**

These Regulations shall not –

- (a) confer any power to issue a summons requiring the appearance of, or the production of documents by, a member of the States; or
- (b) confer any privileges or immunity on a member of the States.

### **PART 2**

#### **SCRUTINY PANELS AND THE PAC**

#### **3 Power of scrutiny panel or the PAC to issue summons**

- (1) Before issuing a summons requiring a person to appear before it and to give evidence and produce documents to it, a scrutiny panel or the PAC must –

- (a) request the person to so appear;
  - (b) accommodate any reasonable request by the person as to the day and time of the appearance; and
  - (c) where it would be appropriate to do so, having regard to the nature of the evidence or documents, undertake to hear the evidence in private or receive the documents in confidence.
- (2) If a person refuses to comply with a request made under paragraph (1) the scrutiny panel or the PAC may summons the person to appear before it and to give evidence and produce documents to it if the panel or the PAC is satisfied that the evidence is, or the documents sought from the person are, relevant to a matter that it is investigating.

#### **4 Procedure for issue of summons by a scrutiny panel or the PAC**

- (1) A scrutiny panel or the PAC shall inform the Greffier of its decision to issue a summons.
- (2) The Greffier shall prepare the summons and sign it.
- (3) The summons shall –
  - (a) state the day and time when the person is required to appear;
  - (b) indicate, in general terms, the issues on which the scrutiny panel or PAC proposes to question the person;
  - (c) be accompanied by information regarding –
    - (i) how the summons may be challenged, and
    - (ii) the offences in Regulation 22.
- (4) The summons may require the person to produce –
  - (a) all documents;
  - (b) specified documents;
  - (c) documents described by reference to their subject matter or any other factor,which are relevant to the matter that the scrutiny panel or PAC is investigating.
- (5) The day on which the person is to appear must be at least 10 working days after the day the summons is served on the person.
- (6) The Greffier shall cause the summons to be served on the person by personal service or ordinary service.

#### **5 Challenging a summons issued by a scrutiny panel or the PAC**

- (1) A person may challenge a summons issued by a scrutiny panel or the PAC on any of the following grounds –
  - (a) that Regulation 3(1) was not complied with before the summons was issued;
  - (b) that any requirement of Regulation 4 was not complied with in respect of the summons;

- 
- (c) that the evidence is, or the documents are, not relevant or necessary to the matter that the scrutiny panel or the PAC is investigating;
  - (d) that the evidence is or documents are privileged;
  - (e) that the prejudice to the person that would ensue from appearing before the scrutiny panel or the PAC and giving the evidence and, where required, producing the documents, so far outweighs the usefulness of the evidence or documents to the panel or the PAC that it would be unreasonable to require the person to appear.
- (2) The person must notify the Greffier, in writing, that he or she wishes to challenge the summons and of the grounds for his or her challenge.
  - (3) Once the person has so notified the Greffier –
    - (a) the Greffier shall inform the PPC and the scrutiny panel or the PAC of the challenge; and
    - (b) the person shall not be required to obey the summons unless, on review, it is upheld by the PPC.

## **6 Review of challenge of summons issued by a scrutiny panel or the PAC**

- (1) The PPC shall review the challenge as soon as is practicable.
- (2) A member of the PPC who is connected with or involved in the matter being investigated by the scrutiny panel or PAC whose summons is being challenged, or who is a member of the scrutiny panel or PAC, shall not take any part in the review.
- (3) The PPC shall undertake such investigations into the matter as it sees fit and may, as part of the investigations, request submissions, either in writing or in person, from –
  - (a) the chairman and any member of the scrutiny panel or PAC;
  - (b) the person who has challenged the summons;
  - (c) any other person whose submission is, in the opinion of the PPC, relevant to its review of the challenge.
- (4) After it has concluded its investigations the PPC shall either –
  - (a) uphold the summons as served;
  - (b) uphold the summons with such alterations as it considers appropriate; or
  - (c) direct that the person is not required to obey the summons.
- (5) The PPC shall inform the person who challenged the summons, and the scrutiny panel or the PAC, of its decision and the reasons for it.

## **7 Challenge and review of question put by a scrutiny panel or the PAC**

- (1) A person appearing before a scrutiny panel or the PAC in answer to a summons may challenge a question put by the scrutiny panel or PAC on the ground that –

- (a) the question is not relevant or necessary to the matter that the scrutiny panel or PAC is investigating;
  - (b) the evidence sought is privileged; or
  - (c) the prejudice to the person that would ensue if he or she answered the question so far outweighs the usefulness of the answer to the scrutiny panel or PAC that it would be unreasonable to require the person to answer.
- (2) Once the person has made the challenge, he or she is not required to answer the question unless the PPC directs that it must be answered.
- (3) Paragraphs (1) to (3) of Regulation 6 shall apply to a review of a challenge to a question as they apply to a review of a challenge to a summons.
- (4) After it has concluded its investigations the PPC shall direct –
  - (a) that the question must be answered; or
  - (b) that the question need not be answered.
- (5) The PPC shall inform the person who challenged the question, and the scrutiny panel or PAC, of its decision and the reasons for it.

#### **8 Privileges and immunity of person appearing before or producing documents to a scrutiny panel or the PAC**

- (1) A person asked or required to give evidence or produce documents before a scrutiny panel or the PAC shall be entitled, in respect of such evidence and documents, to legal professional privilege and privilege against self-incrimination.
- (2) An answer given by a person to a question put to that person, an oral or written statement made by a person, or a document produced by a person, in the course of his or her appearance before a scrutiny panel or the PAC shall not, except in the case of proceedings for an offence under these Regulations, be admissible in evidence against that person in any civil or criminal proceedings.
- (3) Paragraph (2) shall not apply to evidence given or documents produced by that person which he or she knows to be untrue.

#### **9 Immunity of member of the PAC who is not a member of the States**

No civil or criminal proceedings may be instituted against a member of the PAC who is not also a member of the States for any words spoken or written –

- (a) before or within the PAC; or
- (b) in a report to the PAC or a report presented by the PAC to the States.

#### **10 Application of Part 2 to sub-panel etc of a scrutiny panel**

Where a scrutiny panel establishes a sub-panel under standing order 135, or appoints a member under standing order 136, to review, consider, scrutinize or

---

liaise upon any particular matter, this Part shall have effect with the modifications necessary –

- (a) to enable the sub-panel or member to make a request under Regulation 3(1);
- (b) to empower the scrutiny panel to issue a summons requiring a person to appear and give evidence before and produce documents to the sub-panel or member;
- (c) to confer on a person who gives evidence before or produces any document to the sub-panel or member the same privileges and immunity as a person who gives evidence before or produces any document to a scrutiny panel.

### **PART 3**

#### **INVESTIGATION BY PPC OF BREACH OF CODE OF CONDUCT**

##### **11 Application of Part 3**

The powers conferred by this Part on the PPC are exercisable only for the purpose of an investigation, pursuant to standing orders, of a suspected breach of the code of conduct for elected members.

##### **12 Power of the PPC to issue summons**

- (1) Before issuing a summons requiring a person to appear before it and to give evidence and produce documents to it, the PPC must –
  - (a) request the person to so appear;
  - (b) accommodate any reasonable request by the person as to the day and time of the appearance; and
  - (c) where it would be appropriate to do so, having regard to the nature of the evidence or documents, undertake to hear the evidence in private or receive the documents in confidence.
- (2) If a person refuses to comply with a request made under paragraph (1) the PPC may summons the person to appear before it and to give evidence and produce documents to it if the PPC is satisfied that the evidence is, or the documents sought from the person are, relevant to a matter that it is investigating.

##### **13 Procedure for issue of summons by the PPC**

- (1) The PPC shall inform the Greffier of its decision to issue a summons.
- (2) The Greffier shall prepare the summons and sign it.
- (3) The summons shall –
  - (a) state the day and time when the person is required to appear;

- (b) indicate, in general terms, the issues on which the PPC proposes to question the person;
- (c) be accompanied by information regarding –
  - (i) how the summons may be challenged, and
  - (ii) the offences in Regulation 22.
- (4) The summons may require the person to produce –
  - (a) all documents;
  - (b) specified documents;
  - (c) documents described by reference to their subject matter or any other factor,which are relevant to the matter that the PPC is investigating.
- (5) The day on which the person is to appear must be at least 10 working days after the day the summons is served on the person.
- (6) The Greffier shall cause the summons to be served on the person by personal service or ordinary service.

#### **14 Challenging a summons issued on behalf of the PPC**

- (1) A person may challenge a summons on any of the following grounds –
  - (a) that the summons was not issued for the purpose described in Regulation 11;
  - (b) that Regulation 12(1) was not complied with before the summons was issued;
  - (c) that any requirement of Regulation 13 was not complied with in respect of the summons;
  - (d) that the evidence is, or the documents are, not relevant or necessary to the matter that the PPC is investigating;
  - (e) that the evidence is or the documents are privileged;
  - (f) that the prejudice to the person that would ensue from appearing before the PPC and giving the evidence and, where required, producing the documents so far outweighs the usefulness of the evidence or documents to the PPC that it would be unreasonable to require the person to appear.
- (2) The person must notify the Greffier, in writing, that he or she wishes to challenge the summons and of the grounds for his or her challenge.
- (3) Once the person has so notified the Greffier –
  - (a) the Greffier shall inform the PPC of the challenge; and
  - (b) the person shall not be required to obey the summons unless, on review, it is upheld by the panel described in Regulation 15(1).

#### **15 Review of challenge of summons issued on behalf of the PPC**

- (1) The challenge shall be reviewed, as soon as is practicable, by a panel comprised of the 1st Senator called in the roll of elected members, the 1st



- 
- Connétable so called and the 1st Deputy so called, disregarding any Senator, Connétable or Deputy who –
- (a) is a member of the PPC; or
  - (b) is connected with or involved in the matter that the PPC is investigating.
- (2) The panel shall undertake such investigations into the matter as it sees fit and may, as part of the investigations, request submissions, either in writing or in person, from –
- (a) the chairman and any member of the PPC;
  - (b) the person who has challenged the summons;
  - (c) any other person whose submission is, in the opinion of the panel, relevant to its review of the challenge.
- (3) After it has concluded its investigations the panel shall either –
- (a) uphold the summons as served;
  - (b) uphold the summons with such alterations as it considers appropriate; or
  - (c) direct that the person is not required to obey the summons.
- (4) The panel shall inform the person who challenged the summons, and the PPC, of its decision and the reasons for it.

#### **16 Challenge and review of question put by the PPC**

- (1) A person appearing before the PPC in answer to a summons may challenge a question put by the PPC on the ground that –
  - (a) the question is not relevant or necessary to the matter that the PPC is investigating;
  - (b) the evidence sought is privileged; or
  - (c) the prejudice to the person that would ensue if he or she answered the question so far outweighs the usefulness of the answer to the PPC that it would be unreasonable to require the person to answer.
- (2) Once the person has made the challenge, he or she is not required to answer the question unless the panel described in Regulation 15(1) directs that it must be answered.
- (3) Paragraphs (1) and (2) of Regulation 15 shall apply to a review of a challenge to a question as they apply to a review of a challenge to a summons.
- (4) After it has concluded its investigation the panel described in Regulation 15(1) shall direct –
  - (a) that the question must be answered; or
  - (b) that the question need not be answered.
- (5) The panel shall inform the person who challenged the summons, and the PPC, of its decision and the reasons for it.

**17 Privileges and immunity of person appearing before or producing documents to the PPC**

- (1) A person asked or required to give evidence or produce documents before the PPC shall be entitled, in respect of such evidence or documents, to legal professional privilege and privilege against self-incrimination.
- (2) An answer given by a person to a question put to that person, an oral or written statement made by a person, or a document produced by a person, in the course of his or her appearance before the PPC, shall not, except in the case of proceedings for an offence under these Regulations, be admissible in evidence against that person in any civil or criminal proceedings.
- (3) Paragraph (2) shall not apply to evidence given or documents produced by that person which he or she knows to be untrue.

**18 Immunity of member of panel acting for the PPC who is not a member of the States**

- (1) This Regulation applies to a person –
  - (a) who is not a member of the States; and
  - (b) who is a member of a panel appointed by the PPC, pursuant to standing orders, to investigate an act.
- (2) No civil or criminal proceedings may be instituted against the person for any words spoken or written –
  - (a) before or within the panel; or
  - (b) in the panel's report to the PPC.

**19 Application of Part 3 to panel acting for the PPC**

Where, pursuant to standing orders, the PPC appoints a panel to investigate an act this Part shall have effect with the modifications necessary –

- (a) to enable the panel to make a request under Regulation 12(1);
- (b) to empower the PPC to issue a summons requiring a person to appear and give evidence before and produce documents to the panel;
- (c) to confer on a person who gives evidence before or produces any document to the panel the same privileges and immunity as a person who gives evidence before or produces any document to the PPC.

**PART 4****MISCELLANEOUS AND CLOSING****20 Personal service**

- (1) For the purposes of these Regulations, personal service of a summons is effected by leaving it with the person to be served.

- 
- (2) In the case of personal service on a body corporate, such service may be effected by leaving the summons with the president or chairman, or the secretary, treasurer or other similar officer of the body corporate or by leaving it at or delivering it to the registered office of the body corporate.

## **21 Ordinary service**

- (1) For the purposes of these Regulations, ordinary service of a summons is effected –
- (a) in the case of service on an individual –
    - (i) by leaving it at the last known address or last known place of business of the person to be served, or
    - (ii) by sending it by ordinary post to the last known address or last known place of business of the person to be served;
  - (b) in the case of service on a body corporate –
    - (i) by leaving it at or sending it by ordinary post to the registered or principal office of the body corporate, or
    - (ii) by leaving it at or sending it by ordinary post to the last known place of business of the body corporate.
- (2) Without prejudice to Article 7 of the Interpretation (Jersey) Law 1954<sup>2</sup> a document sent by post to an address in Jersey shall, unless the contrary is proved, be deemed to have been served on the 2nd day after the day on which it was posted, days on which there is no collection or delivery excepted.

## **22 Offences**

- (1) A person shall be guilty of an offence if he or she, without reasonable excuse –
- (a) disobeys any requirement of a summons issued under these Regulations; or
  - (b) when summoned under these Regulations refuses to comply with a requirement to be examined before, or to answer any lawful and relevant question put by, the committee or panel which issued the summons or, as the case may be, on whose behalf the summons was issued under Regulation 10(b) or 19(b).
- (2) A person guilty of an offence under paragraph (1) shall be liable to a fine of level 4 on the standard scale.

## **23 Citation and commencement**

- (1) These Regulations may be cited as the States of Jersey (Powers, Privileges and Immunities) (Scrutiny panels, PAC and PPC) (Jersey) Regulations 2006.

- (2) These Regulations shall come into force 7 days after they are made.

**M.N. DE LA HAYE**

*Greffier of the States*

- 
- <sup>1</sup> *chapter 16.800*  
<sup>2</sup> *chapter 15.360*