

**MACHINERY OF GOVERNMENT: ESTABLISHMENT OF A PRIVILEGES AND PROCEDURES COMMITTEE
(P.23/2002) - AMENDMENTS**

**Lodged au Greffe on 19th February 2002
by the House Committee**



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- (1) *In sub-paragraph (i) of paragraph (b) after the words “for approval by the States,” insert the words “following consultation with the Bailiff as President of the States,”.*
- (2) *In sub-paragraph (i) of paragraph (b) after the words “the redrafting of,” insert the words “the States of Jersey Law 1966, as amended and” and after the words “to keep” insert the words “the States of Jersey Law 1966, as amended (or any new legislation replacing that Law) and”.*
- (3) *In sub-paragraph (iii) of paragraph (b) after the words “the Chief Minister” insert the words “and any other member or members as appropriate”.*
- (4) *In sub-paragraph (vii) of paragraph (b) after the words “the work of” where they appear for the second time insert the words “the Council of Ministers,”.*
- (5) *In sub-paragraph (viii) of paragraph (c) after the words “proposals for amending” insert the words “, or redrafting, the States of Jersey Law 1966, as amended, and”*

HOUSE COMMITTEE

REPORT

The House Committee is not opposing the creation of a new Privileges and Procedures Committee which will take on the present functions of the House Committee and, in addition, will have wider terms of reference and responsibilities as set out in the proposition of the Policy and Resources Committee. The House Committee has liaised closely with the Policy and Resources Committee during the consultation period for this proposition and is pleased that a large number of suggestions it made have been incorporated into the final version. There were, nevertheless, certain important and significant suggested changes to the draft proposition that were not accepted by the Policy and Resources Committee and the House Committee has therefore decided to bring forward these amendments to allow these matters to be considered and decided by the States.

Amendment (1)

The House Committee considers that it is important that the Bailiff, as President of the States, is consulted before amendments to the States of Jersey Law 1966 and the Standing Orders of the States are finalised and brought forward for approval. Although the Privileges and Procedures Committee would almost certainly wish to consult with the Bailiff, the House Committee believes it is important that the requirement to consult with him is clearly specified in the terms of reference. (For the avoidance of doubt the House Committee would wish to point out that this issue was considered after the end of the consultation period with the Policy and Resources Committee and was not one of the points of disagreement between the Committees referred to earlier.)

Amendment (2)

The second amendment asks the States to give responsibility for the preparation of the new States of Jersey Law to the Privileges and Procedures Committee. The House Committee believes that the new or revised States of Jersey Law will be fundamental to the establishment of a clear system of checks and balances within the new form of ministerial government and the preparation of the Law should therefore be the responsibility of a body independent of the Executive. Although there is, at present, no such concept as 'an Executive', the House Committee believes that it would be quite inappropriate for the Policy and Resources Committee to bring forward proposals relating to the future organisation of the States Assembly and, indeed, the entire system of government in the Island. The House Committee has noted that the Policy and Resources Committee's own Implementation Plan on the proposed reforms implies that the Privileges and Procedures Committee should undertake the review of the States of Jersey Law. For example paragraph 4.4 of the Implementation Plan states '*In its review of the States of Jersey Law and Standing Orders, the Privileges and Procedures Committee will have to ensure that the rights of members are clearly stated*'. Paragraph 5.1.4 of the Plan states- '*It (the Policy and Resources Committee) intends to ask the Privileges and Procedures Committee, as part of its formal proposals for the reform of the States of Jersey Law, the workings of the Assembly and the arrangements for scrutiny, to bring forward proposals on improving the consideration of detailed draft legislation, at an early stage.*' The House Committee does not believe it is adequate to suggest the members of the Privileges and Procedures Committee should be involved in a joint 'Working Group' proposed in paragraph 4.3 of the report accompanying the Policy and Resources Committee's proposition. As mentioned above, the new States of Jersey Law will encompass not only States Assembly procedures, including the work of the Scrutiny Committees, but also the workings of the Executive. It is therefore essential that full political responsibility for the preparation of the Law is given to the Privileges and Procedures Committee which, in the words of paragraph 4.8 of the report accompanying the Policy and Resources Committee's proposition, is "a committee separate from both the executive and scrutiny bodies, responsible for many procedural matters, including overseeing the good order of the Assembly, and carrying out its work on behalf of ALL members".

Amendment (3)

Paragraph (b)(iii) of the proposition of the Policy and Resources Committee requires the Privileges and Procedures Committee to consult with the Greffier of the States and the Bailiff, as President of the States, over the 'general procedures' for the timely and efficient management of public business in the States Assembly. The proposition also requires the new Committee to consult with the Chief Minister on these matters after introduction of a ministerial system. The House Committee is concerned that the reference to the Chief Minister implies that the work of the new Committee is not being restricted to 'general procedures' as, if it were, it would not be appropriate to consult with the Chief Minister. The House Committee believes that, if consultation is to take place with the Chief Minister, it is essential to specify that all other members with an interest in the arrangement of business (particularly when seeking a date for debate for a proposition) must be involved.

Amendment (4)

Paragraph (b)(vii) of the proposition suggests that the Privileges and Procedures Committee should be responsible for bringing forward for approvals proposals for the provision of information to the public about the work of the States Assembly

and, after the introduction of a ministerial form of government, about the work of the Scrutiny Committees and the Public Accounts Committee. The House Committee believes that the Privileges and Procedures Committee should also be responsible for bringing forward proposals on the procedures which the Council of Ministers must use to provide information to the public. It is essential that members of the States and the public are provided with adequate access to information about the work of the Council of Ministers as, if decisions on how this is to be done are left to the Executive, there is a danger that procedures would be put in place which would prevent proper access. The Council would, in effect, be given complete freedom to design its own rules. The House Committee believes that the Privileges and Procedures Committee, as a body which is separate from the Executive, should be given responsibility to bring forward the rules which will apply to the Council.

The House Committee believes that the Privileges and Procedures Committee should, for similar reasons, be responsible for bringing forward for approval the Code of Conduct for the Chief Minister and Ministers. This issue is not included in these amendments as it is dealt with in paragraph (b) of the proposition of Senator Stuart Syvret on the Machinery of Government composition and role of Privileges and Procedure and Scrutiny Committees (P.175/2001 lodged 'au Greffe' on 13th November 2001) and the House Committee supports that proposal.

Amendment (5)

This amendment is consequential on Amendment (2) as it deals with responsibility for bringing forward proposals or amending or redrafting the States of Jersey Law.

The House Committee has noted the ambitious timetable set out in the proposition for the new Committee to undertake its initial work and believes that it will be extremely difficult to bring forward proposals by the suggested deadlines. This is not only because of the amount of work involved but also because of the necessity to progress matters in a particular order and to provide for full and proper consultation to take place. It will not be possible to bring forward detailed proposals on the Standing Orders of the States until proposals on the States of Jersey Law have been finalised and that Law cannot, in turn, be drafted until a number of other matters (for example the exact powers and role of the Council of Ministers) have been agreed.

Financial and manpower implications

The House Committee does not believe that there are any additional resource requirements arising out of these amendments. Although the Privileges and Procedures Committee would take responsibility for the States of Jersey Law if the amendments are adopted, this would not lead to additional resource requirements as the officers already identified to assist the Policy and Resources Committee with this matter would simply report to the Privileges and Procedures Committee instead.

The House Committee is nevertheless concerned that the report of the Policy and Resources Committee accompanying the proposition does not identify clearly enough that additional resources, particularly proper executive support, will be required for the new Committee even though paragraph (d) of the proposition asks the States to agree that '*adequate*' resources must be made available. Paragraph 5.1 of the report states that the new Privileges and Procedures Committee '*may decide that it needs additional resources*'. The House Committee is convinced that additional resources will be required if the new Committee is to undertake the work required within the timescales set out in the proposition and believes that the States should give a clear signal to this effect when adopting paragraph (d).