

# STATES OF JERSEY



## NON-ELECTED MEMBERS ON SCRUTINY PANELS AND CHANGE IN TROY RULE

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Lodged au Greffe on 3rd June 2025  
by Deputy M.R. Scott of St. Brelade  
Earliest date for debate: 24th June 2025

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STATES GREFFE

## **PROPOSITION**

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

- (a) that the appointment to Scrutiny Panels of persons who are not States Members should be permitted, on similar terms and with similar safeguards as non-States Members may be appointed to the Public Accounts Committee and subject to such further democratic safeguards as the Privileges and Procedures Committee and Scrutiny Liaison Committee may regard as appropriate, provided that the relevant Scrutiny Panel shall contain a minimum of two States Members (including the Chair and Vice-Chair) and that the number of non-States Members on that Panel shall be no greater than 50% of the total membership of the Panel;
- (b) that the limit on the number of Ministers and Assistant Ministers prescribed in Standing Order 112A for the purposes of Article 25A(1) of the States of Jersey Law 2005 should be increased from 21 to 25; and
- (c) to request the Privileges and Procedures Committee to bring forward the necessary amendments to the Standing Orders of the States of Jersey to give effect to this proposition in time for the General Election in 2026.

**DEPUTY M.R. SCOTT OF ST. BRELADE**

## REPORT

The purpose of this Proposition is:

- (a) to enable persons who are not States Members to serve as non co-opted members of Scrutiny Panels subject to terms of appointment and Codes of conduct approved by the Privileges and Procedures Committee and Scrutiny Liaison Committee; and
- (b) to change the restriction on the number of States Members who can serve on the Council of Ministers to enable a (marginal) majority of States Members to serve in the role of Ministers or Assistant Minister.

These proposals are being put forward concurrently in view of the potential of the proposal in paragraph (a) to facilitate the proposal in paragraph (b), notwithstanding that the proposals may be considered to have independent merits and could stand alone too.

### **Enabling non States Members to join Scrutiny Panels**

Government in all areas has limited resources and a growing need to use its resources efficiently without diminishing service or democratic accountability.

This proposal aims to improve management of public resources, the quality of scrutiny and engagement with the public.

The [Clothier Report](#) stated that ‘the scrutiny role of Members who are not in the Executive is vital to a balanced machinery of government’.<sup>1</sup> So is access to expert advice. Where this cannot always be provided by Scrutiny officers or by States Members, the cost of independent expert advice can fall unevenly amongst Scrutiny Panels, depending on the outcome of public elections, and the resultant composition of the States Assembly in terms of experience, knowledge and interest relevant or helpful to Scrutiny roles. This is unpredictable and can also lead to an imbalance in the number of Members willing to serve on different Scrutiny Panels. As States Members, we should put the interests of the public first.

The [Code of Practice for Scrutiny Proceedings](#)<sup>2</sup> enables Scrutiny Panels to appoint and commission advisers but generally this is on a case by case basis and requires specific terms of engagement and budget. The Code makes a distinction in the case of the Public Accounts Committee (PAC) on the basis that the Comptroller & Auditor General acts as a special adviser to the Panel.<sup>3</sup>

To provide the best possible Scrutiny for the Island, we need to be able to ensure that all Scrutiny Panels can benefit from a relatively even distribution of informed, expert and independent interrogators of government policy, including where the fields of experience and interest of elected States Members may not evenly align with the focal areas of the respective Scrutiny Panels.

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<sup>1</sup> Paragraph 3.4

<sup>2</sup> Paragraphs 53-55

<sup>3</sup> Paragraph 110

Incorporating non-States Members into Scrutiny would reflect an ambition of the Clothier Panel to afford Jersey's 'unusually high proportion of very well-qualified business and professional people', to which Paragraph 10.5 of the Clothier Report refers, 'a better opportunity to contribute'.

Jersey has a tradition of volunteers in our community who assist in delivery in different areas of government. It could be of enormous benefit to panels to be able to appoint independent members to provide scrutiny if those members are prepared to serve voluntarily within democratic and ethical constraints, which this Proposition contemplates.

While the Clothier Panel suggested that members of Scrutiny Panels could have a role in creating policies, it is widely accepted that, in Jersey's Ministerial system, Ministers should create policy and Scrutiny Panels should review and question proposed policies. Nevertheless, the concern that unelected lobbyists and campaigners should not promote political agendas at Scrutiny meetings should be addressed, e.g., in appropriate rules regarding recruitment, a Code of Conduct for lay members or restricting any voting rights of lay members.

Non-States members acting on a voluntary basis currently are included in the composition of the Public Accounts Committee (the "PAC"). Former Chairs of the PAC have successively remarked on the value brought to that Panel through its inclusion of 'lay members'.

Introducing non-elected members onto Scrutiny Panels also would improve the ability of States Members to attend to other tasks by making less demands on them to serve in multiple roles. While the assumption of several roles within the States Assembly's Committee and Panel structure by any individual States Member may look impressive on paper, it can mean States Members spreading themselves thinly or juggling more work than is reasonable and healthy for them.

The use of States Members to form the Planning Committee after introduction of the Ministerial system has placed an additional strain on the resourcing of roles by States Members that was not contemplated by the Clothier Report, while there is no evidence of our community wishing to increase the number of States Members, which also would place a further demand on public finances.

[Standing Order 131](#) requires 50% of the PAC's members not to be Members of the States. I am not seeking a fixed number of lay members for Scrutiny Panels in the same way as is required for the PAC, rather the option for Scrutiny Panels to seek external members. Building upon the proven safeguards and process utilised for the PAC would assist with the process for recruitment and regulation of conduct of non-elected Panel members, leveraging off an established and well monitored system.

### **Change of Troy rule**

This proposal aims to improve budgetary discipline in respect of public resources and the involvement of States Members in the direct oversight of Ministries.

The number of Members of the States Assembly who can serve as Ministers or Assistant Ministers is currently restricted, in accordance with Article 25A of the States of Jersey Law 2005, to no more than 21 by Standing Order 112A.

This reflects:

- (i) a restriction proposed in the Clothier Report that a majority of Members of the States should not be in executive office to provide scrutiny of those who are; and
- (ii) a formula proposed by former Deputy Peter Nicholas Troy of St Brelade at the time that Ministerial government was introduced by [P-122-2001](#).

The [Clothier Report](#) suggested that the proposed Scrutiny structure ‘should impose a firmer discipline on public spending’<sup>4</sup>. This has not been evidenced over time and the current restriction on the number of States Members acting within the Executive could be said to support the opposite. The Fiscal Policy Panel in its [last annual report in September 2024](#) noted a deterioration in the operating balance in Jersey government accounts along with an insufficiency in the balances of its Stabilisation Fund and Strategic Reserve Fund.

Conversely, a rule that contrives that members of the Executive should always form a minority of States Members makes it easier for budgetary priorities to be effectively overridden at any time by members of the States Assembly who are not members of the Executive – and not therefore constrained by a principle of collective responsibility, even when a budget for government spending has been prepared in accordance with the priorities set out in a Common Strategic Policy (CSP) approved by the States Assembly.

A firmer discipline on public spending might also be supported by implementing another recommendation of the Clothier Panel – that the Chairmen of the Scrutiny Panels should all be members of the Public Accounts Committee. This recommendation has not been implemented, despite its potential for improving involvement and co-ordination in the scrutiny of public spending by ensuring each Scrutiny Panel has a member sitting on the PAC and that all members of the Scrutiny Liaison Committee would be members of the PAC.

Research into prescribed Ministerial numbers in different parliamentary constitutions has shown thereto be no universal rule regarding the proportion of elected members who should have roles in executive government. For example, Gibraltar and Fiji have rules to secure a majority of elected members in executive government by no more than 17.6 and 5.4% respectively. Malta and St Helena have rules to secure a majority of elected members in executive government by 69.6 and 16.6% respectively.

Jurisdictions with a two-party system (such as the United Kingdom, Canada and Australia) make structural majority support for members in executive government more common and achievable. However, jurisdictions like Jersey with far smaller population sizes generally do not have local interest or economies of scale to support the establishment of such political party systems.

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<sup>4</sup> Paragraphs 4.13 to 4.15

The current weighting of States Members in Executive and backbench roles further contradicts the statement in paragraph 4.9 of the Clothier Report that ‘for leadership to be established there has to be a willingness in a community to be led by some respected persons who must then be allowed a reasonable measure of control, subject to continuing accountability, until such time as the electorate expresses its wish to replace them.’ The current system makes it difficult for leadership to be established.

The suggestion in paragraph 5.13 of the Clothier Report that 15 to 20 Members would be adequately employed in executive government has proved an under-estimate. Our community would benefit from more resourcing to provide Ministerial steerage and oversight of the formation and delivery of policies by government in addition to the other duties performed by States Members that are supported by Greffe officers, including Scrutiny and, more lately, constituency officers.

If this part of the Proposition is adopted in addition to the first part, any concern regarding reduced resourcing of Scrutiny Panels resulting from the adoption of this Proposition could be alleviated by the recruitment of non-elected members on Scrutiny Panels who could be more suited to the relevant Scrutiny roles than the States Members who might otherwise have been sought by Scrutiny chairmen to fill them.

Either way, if this part of the Proposition is adopted, more States Members would be able to play a role in government administration and policy making.

### **Financial and staffing implications**

There are negligible financial implications. Manpower implications would include the work of the PPC and the SLC, along with the relevant Officer time for drafting the necessary changes to Standing Orders.

### **Children’s Rights Impact Assessment**

A Children’s Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.