

STATES OF JERSEY



SHADOW SCRUTINY PANELS AND SHADOW PUBLIC ACCOUNTS COMMITTEE: APPOINTMENT OF SHADOW CHAIRMEN AND MEMBERSHIP

Lodged au Greffe on 4th January 2005
by the Privileges and Procedures Committee

STATES GREFFE

PROPOSITION

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

to refer to their Acts dated 27th January 2004 in which were approved the Shadow Scrutiny: arrangements and approval of Chairmen and members (P.186/2003) and Shadow Public Accounts Committee: terms of reference (P.194/2003) and

- (a) to agree that members of the Privileges and Procedures Committee may be elected as members of the Shadow Scrutiny Panels, and to appoint the following –

Senator Paul Vincent Francis Le Claire

- (b) to appoint forthwith by ballot, in accordance with procedures mirroring those in Standing Order 41 (1B) – 41(1F) on the election of Committee Presidents, 2 members to be Chairmen of the Shadow Scrutiny Panels for a period of 12 months with effect from 27th January 2005 or until ministerial government commences, whichever is the sooner;
- (c) to extend the Chairmanship of Senator Edward Philip Vibert of the Panel investigating the Waste Management Strategy for a period of 2 months for the sole purpose of the presentation of the final report to the States;
- (d) to appoint forthwith by ballot, in accordance with Standing procedures mirroring those in Standing Order 41(1B) – 41(1F) on the election of Committee Presidents, a Shadow Chairman of the Shadow Public Accounts Committee for a period of 12 months with effect from 27th January 2005 or until ministerial government commences, whichever is the sooner;
- (e) on the recommendation of the Shadow Chairman of the Shadow Public Accounts Committee, to appoint forthwith by ballot 3 members of the Shadow Public Accounts Committee for a period of 12 months with effect from 27th January 2005 or until ministerial government commences whichever is the sooner;
- (f) to refer to their Act dated 16th December 2003 regarding the terms of reference of the Shadow Public Accounts Committee (P.194/2003) and rescind their decision to include the Shadow Scrutiny Chairmen as members of the Shadow Public Accounts Committee.

PRIVILEGES AND PROCEDURES COMMITTEE

REPORT

A. Appointment of members of the Privileges and Procedures Committee to Scrutiny

The States agreed in September 2001 that “the States will establish, upon the basis of conditions and terms of reference to be drawn up by the Procedure Committee, a small number of scrutiny committees, comprised of members of the States not involved in the Executive, the function of such committees being, in support of the overriding role of the States Assembly in such matters, to contribute to the development of policy, to scrutinise legislation, and to examine the performance of government”.

On 24th July 2003, the States approved Machinery of Government: establishment of Scrutiny Panels and Public Accounts Committee (P.79/2003) which included the decision that “each Scrutiny Panel shall be comprised of a Chairman and four other members of the States who are not members of the Executive”.

The Committee has become increasingly concerned that there are insufficient members to support the scrutiny process at the current time. There have been a number of resignations owing to pressure of work. The political membership of the Shadow Public Accounts Committee and the shadow Scrutiny Panels is as follows –

<u>Shadow Public Accounts Committee</u>	<u>Shadow Scrutiny Panel</u>	<u>Shadow Scrutiny Panel</u>
Deputy S.C. Ferguson (Shadow Chairman) Connétable of Grouville Deputy J.J. Huet Deputy of St. Ouen Shadow Chairmen, <i>ex officio</i>	Senator E.P. Vibert (Chairman) Senator J.A. le Maistre Deputy R.C. Duhamel Deputy of St. John Deputy G.C.L. Baudains Deputy F.J. Hill, B.E.M.	Deputy G.P. Southern (Chairman) Connétable of St. Helier Deputy M.F. Dubras

Deputy J.A. Hilton remains a member of scrutiny and is considering membership of one of the newly constituted Panels.

The following members have resigned –

Senator P.V.F. Le Claire, on being appointed to the Privileges and Procedures Committee
Connétable of St. Brelade
Connétable of St. Mary
Deputy J.L. Dorey, former Shadow Chairman

At the outset, it had been expected that the pool of members would come together in different memberships for different reviews, in much the same way as occurs for Administrative Appeals, and it is anticipated that this proposal will be followed for 2005. Nevertheless, the numbers actively involved in scrutiny, setting aside the Shadow Public Accounts Committee, is only 7 members, which falls short of the standard of a Chairman and 4 members, particularly as a number of members continue to hold executive responsibilities. The Committee has written to all States members asking for expressions of interest in being a member of a Shadow Scrutiny Panel and only one member has expressed an interest and therefore, in order to increase the numbers available for scrutiny recommends that its members be allowed to put their names forward.

In approving the Shadow Scrutiny: arrangements and approval of Chairmen and members (P.186/2003) on 27th January 2004, the States agreed that members of the Privileges and Procedures Committee should be precluded from serving on the Shadow Scrutiny Panels and on the Shadow Public Accounts Committee and charged the Committee “to maintain an oversight of the shadow scrutiny process to ensure that the process is used to develop a robust scrutiny framework after the introduction of ministerial government and to report on the operation of the shadow scrutiny process”. However, in the same way as members of executive Committees are able to be

members of Shadow Scrutiny Panels so long as they do not participate in any review pertaining to their own Committee, the Privileges and Procedures Committee wishes to recommend that its members should also be able become members in order to increase numbers, and to participate in the learning process that membership of a Shadow Scrutiny Panel affords.

B. Appointment of Shadow Scrutiny Chairmen

On 27th January 2003, the States approved a proposition relating to the arrangements and approval of Chairmen and members of Shadow Scrutiny (P.186/2004). That proposition appointed members of the Shadow Scrutiny Panels and

- (a) agreed that Presidents of Committee and members of the Privileges and Procedures Committee should be precluded from serving on Shadow Scrutiny Panels and on the Shadow Public Accounts Committee;
- (b) agreed that the States should, subject to the restriction in paragraph (a) above, appoint forthwith by ballot 2 members to be Chairmen of the 2 Shadow Scrutiny Panels for an initial period of 12 months;

The appointment the Shadow Chairmen, Deputy Jeremy Lawrence Dorey of St. Helier and Senator Edward Philip Vibert were made on 27th January 2004 following a secret ballot, the latter being replaced on his resignation by Deputy G.P. Southern from 26th October 2004, and their terms expire on 26th January 2005.

P.186/2003 stated that the Chairman of each Panel would be appointed for an initial period of 12 months and the States would then be asked to appoint a replacement for a further 12 months, or until the introduction of ministerial government. The Committee proposes that the appointments should again be made by secret ballot, and that for clarity, this should follow the procedures for the appointment of Committee Presidents as set out in Standing Order 41(1B) – 41(1F).

C. Extension of appointment of Senator E.P. Vibert

The Shadow Scrutiny Panel which is investigating the Waste Management Strategy is due to report at the end of March 2005, and Senator E.P. Vibert has expressed the wish to continue as Chairman of that particular review until it is presented. The Committee supports this proposal, and does not intend that Senator Vibert should continue to be involved in any other Chairmanship duties with effect from 27th January 2005. The 2 newly appointed Shadow Chairman would take over all Chairmanship functions with effect from 27th January 2005.

D. Appointment of Shadow Chairman, Shadow Public Accounts Committee

On 27th January 2004, the States approved a proposition of the Finance and Economics Committee regarding the appointment of the Shadow Public Accounts Committee, and

- (c) agreed that the States, subject to the restriction in paragraph (a) above (namely, not being a member of the Finance and Economics Committee), to appoint forthwith by ballot a member to be the Shadow Chairman of the Shadow Public Accounts Committee for an initial period of 12 months;

The States then appointed Deputy Sarah Craig Ferguson of St. Brelade as Shadow Chairman for a period of 12 months, and her term expires on 26th January 2005.

As for the Shadow Scrutiny Panels, the Committee proposes that an appointment should again be made by secret ballot, and that for clarity, this should follow the procedures for the appointment of Committee Presidents as set out in Standing Order 41(1B) – 41(1F).

E. Appointment of members of the Shadow Public Accounts Committee

On 7th July 2004 the States adopted a proposition (P.116/2004) to agree that the composition of the Shadow Public Accounts Committee should be amended with immediate effect to include 2 additional States members not being Presidents of Committees or members of the Finance and Economics Committee or Privileges and Procedures Committee, with the additional members being appointed by the States on the nomination of the Shadow Chairman of the Committee. The constitution of the Shadow Public Accounts Committee is currently therefore –

Mr. Timothy Dunningham, the independent Chairman, reappointed by the States at its meeting on 10th June 2003, for a further period of 3 years.

4 independent members, appointed by the Finance and Economics Committee, after discussion with the Privileges and Procedures Committee.

A States member who will be the Shadow Chairman, appointed by the States.

The Chairmen of the 2 Shadow Scrutiny Panels.

3 States Members nominated by the Shadow Chairman and appointed by the States.

In order to allow the Shadow Public Accounts Committee to proceed with its work following the appointment of the Shadow Chairman, the Committee recommends that the States appoint the three States members nominated by the Shadow Chairman following appointment to that post.

F. Removal of Shadow Scrutiny Chairmen from the Shadow Public Accounts Committee

On 16th December 2003 the States approved the initial composition of the Shadow PAC based on the decisions of the States on 28th September 2001 and 10th June 2003 to include the Shadow Scrutiny Chairmen, however this composition has not been without difficulty as the Shadow Chairmen have found it difficult to attend Shadow PAC meetings because of their continued commitment to Committee work. Indeed the States amended the membership of the Shadow PAC by increasing the number of States members on that Committee in order to ensure a quorum of States members at all meetings.

On 16th November 2004, the States adopted the draft States of Jersey Law 200- which had originally included provision for each chairman of a Scrutiny Panel to be members of the PAC, but on a proposition of Deputy S.C. Ferguson, being the Shadow Chairman of the Shadow PAC, this provision was removed to be replaced by the provision that Standing Orders would be drafted to

- “47 (3)(c) require the States to appoint at least 4 persons to be members of such Committee of whom –
- (i) 50% shall be elected members, who are not Ministers or Assistant Ministers, and
 - (ii) 50% shall be persons who are not members of the States;”

The Privileges and Procedures Committee has reviewed the composition of the Shadow PAC in the light of the above decision of the States and following consultation with the Shadow PAC, and agrees that it is not productive for the Shadow Scrutiny Chairmen to continue to be *ex officio* members. The Shadow Scrutiny Chairmen may, however, seek nomination as members of the Shadow PAC in the same way as any other member not precluded from serving by virtue of being Presidents of Committees or members of the Finance and Economics Committee or Privileges and Procedures Committee.

The Committee accordingly recommends that the States rescind their decision to include the Shadow Scrutiny Chairmen within the composition of the Shadow PAC.

Financial and manpower implications

There are no financial or manpower implications arising from this proposition.