

STATES OF JERSEY



ELECTORAL COMMISSION: ESTABLISHMENT (P.15/2011) – SECOND AMENDMENT

**Lodged au Greffe on 22nd February 2011
by the Deputy of St. Mary**

STATES GREFFE

ELECTORAL COMMISSION: ESTABLISHMENT (P.15/2011) –
SECOND AMENDMENT

1 PAGE 2, PARAGRAPH (a) –

In paragraph (ii), after the words “make-up of the States” insert the words “and of the Executive, namely the Chief Minister, Ministers and Assistant Ministers”.

2 PAGE 2, PARAGRAPH (b) –

After the words “as set out in Appendix 1” insert the words –

“except that in the said Terms of Reference in Appendix 1 –

(i) in paragraph 1, in the fifth bullet point, for the words “The election process” substitute the words “The functions of the electoral process”;

(ii) for paragraph 4 substitute the following paragraph –

“4. At the conclusion of its investigation, the Electoral Commission shall put forward a complete package of how the elections to the States should operate in Jersey, with this package being capable of commanding the support of the public, and only to desist from this duty if in all conscience it finds itself unable to do so.”

3 PAGE 2, PARAGRAPH (e) –

For paragraph (e) substitute the following paragraph –

“(e) to agree that on receiving the recommendations of the Electoral Commission, if the Commission has recommended a package of election reform (excluding such matters as could be classed as administrative improvements, for example matters pertaining to voter registration), the States shall put the option to the electorate in a referendum and to further agree that this option shall not be pursued further by the States unless it is supported by at least 60% of those voting in the referendum;”

DEPUTY OF ST. MARY

REPORT

Amendment 1

This first Amendment and its partner Amendment 2(i) add few words, but they are very significant.

Elections have 2 main functions – the first is to enable the voters **to decide who represents them** in the representative assembly of their jurisdiction. This should be achieved by fair and equal representation. In Jersey this is manifestly not the case, and I covered this in my original report and proposition.

The second is to enable the electorate **to cast a verdict on who they want in government** and to **cast a verdict on the previous government**. It is this aspect which, although implied in the original report and proposition¹ needs to be made explicit.

There should be a link between the vote or votes the voter casts in the voting booth and the end result that matters most to voters which is: who gets to have decision-making powers in their jurisdiction.

However in Jersey, as things stand, the public does not vote the government in or out. This system has the effect of weakening the mandate of Ministers and of the Chief Minister. They cannot tell the world, their colleagues, or themselves, that they “won the election” or that they have direct legitimacy from the voters.

This is a very strange and unusual situation in modern democracies. Could it be that this gap, this disconnect, between the votes cast and the end result is one reason for the voter apathy which we all know to exist and which we all agree is so damaging to our democracy?

And so this Amendment expands in the guiding principles set out in the proposition at paragraph (a)(ii) the phrase “the make-up of the States” to “the make-up of the States and of the Executive, namely the Chief Minister, Ministers and Assistant Ministers.”

Amendment 2(i)

This first part of Amendment 2 amends paragraph 1 of the Terms of Reference in Appendix 1 of my original proposition so that in the areas to be considered by the Commission, the area “the election process” becomes “the functions of the election process.” This opens up discussion of these functions explicitly and invites Islanders to express their views on these functions to the Commission.

I am not saying that there must be a direct link between voters and Ministerial positions, or that if a direct link becomes a major issue in the discussion, what form that link might take. Squaring this requirement with all the other factors in the

¹ *In the proposition, in the words: “the need to ensure that the views of the electorate are reflected as effectively and as fairly as possible in the make-up of the States;” and in the report, first paragraph: “The purpose of elections is to arrive at a representative Assembly which accurately and fairly reflects the wishes of the people, so far as this is possible. Anything less than this is a deep failure. It leads to a split between governed and States and it shows lack of respect for our people.”*

equation is complicated, but the Commission clearly has to include it in their deliberations, given its potential importance, hence this amendment.

Amendments 2(ii) and 3

These amendments simplify the proposition by removing explicit reference to the possibility that the Commission might be driven to recommend 2 equally valid packages of reform.

I have done this for 3 reasons. The first is that as PPC and others have pointed out, to achieve 60% of the vote in a 3-way choice is a very different thing from achieving 60% in a Yes/No vote.

The second is that in order to deal with that problem, there would have to be a voting system similar to the one used in elections within the States for Ministers. Those voting for the losing choice in the first round would see their second preferences counted. However, this would necessitate provision for preference voting in a referendum and would need changes to the Referendum (Jersey) Law 2002.

The third is that it is unnecessary. If the Commission were to come up with 2 equally valid (in their view) alternative packages, there is nothing whatever to stop them evaluating the acceptability of these 2 alternatives as part of their work.

As amended, the proposition says that the Commission should recommend a package of reforms which would be put to a referendum.

This referendum would need 60% of those voting to vote for the proposed reforms for the States to take the reform package further. I am setting the bar deliberately high so that the referendum will either fail, or it will send a clear and unmistakable signal to the States Assembly of the day that the proposed reform has the support of Islanders.

It will also ensure that campaigning around the reforms will be extremely vigorous, as those supporting the reforms try to achieve the necessary 60% and conversely, those opposed try and achieve more than 40%.

Financial and manpower implications

These amendments do not alter the financial and manpower implications of my original report and proposition.