

STATES OF JERSEY



MACHINERY OF GOVERNMENT: ESTABLISHMENT OF SCRUTINY PANELS AND PUBLIC ACCOUNTS COMMITTEE (P.79/2003) – SECOND AMENDMENTS (P.79/2003 Amd.(2)) – COMMENTS

**Presented to the States on 22nd July 2003
by the Privileges and Procedures Committee**

STATES GREFFE

COMMENTS

“(1) In paragraph (a), delete the list of proposed areas of responsibility, and substitute–

- ‘(i) Corporate Services, Policies and External Relations;**
- (ii) Internal Policy 1;**
- (iii) Internal Policy 2;**
- (iv) Draft legislation.’ ”**

The Privileges and Procedures Committee rejects this amendment, but agrees that the division between the four Panels may need to develop in the light of experience.

The main effect of this amendment would be to create a dedicated legislation Scrutiny Panel. Whilst acknowledging the arguments in favour of doing this, the Committee believes that the most effective and practical way forward would be to allow the subject Panels to consider the relevant legislation in their area of responsibility. In this way there will be a connection between consideration of policy and related legislation which should allow better scrutiny. The Committee also feels that a legislation Scrutiny Panel would have a very narrow legal/technical role tending to look solely at wording of laws and not at the policy framework as well. In the worst case, this could lead to distortion resulting in legislation inadequate for purpose. The Committee accepts that the scrutiny of legislation has often been poor, but the formalisation of scrutiny as proposed in P.79/2003 should ensure that it becomes an integral part of the responsibilities of the Scrutiny Panels

It is worth noting that the Scottish Parliament considered having a dedicated legislation Scrutiny Committee but decided on balance to adopt the method proposed here by the Committee with subject Panels looking at laws within their areas of responsibility.

“(2) In sub-paragraph (b)(i), for the words ‘Chairmen’s Committee’ substitute the words ‘Public Accounts Committee’.”

The Committee rejects this amendment. There is a danger with this proposal that the Public Accounts Committee (PAC) would be seen to be “overseeing” and setting the programme of subjects for scrutiny.

In practice, the proposed membership of the PAC is similar to the proposed Chairmen’s Committee, but with the addition of an independent Chairman appointed by the States. The PAC may also co-opt other members of the States not involved in the Executive. However, there are major differences between the functions of the Chairmen’s Committee and the PAC which are outlined in the report accompanying P.79/2003 (Section 30) and which may be compromised if the terms of reference for the PAC included the prioritisation and co-ordination of the work of the Scrutiny Panels.

When sitting as the PAC, members would be considering matters relating to the audit of public expenditure, value for money and corporate governance (essentially “after the event”) with the Comptroller and Auditor General (CAG) in attendance. The programme of the PAC will, in the main, be based on the reports prepared by the CAG, whose office will also be the main resource available to the PAC. Resulting reports of the PAC itself will also be prepared by the CAG. This is not the case with the Scrutiny Panels, which will be considering policy, budget and other matters of public importance and will base their programme on issues arising from Scrutiny Panel discussions. The role of the Chairmen’s Committee will be to prioritise the resources available to the Scrutiny Panels and ensure that the programmes of the Scrutiny Panels and the PAC are co-ordinated and do not duplicate effort.

“(3) In sub-paragraph (b)(ii), delete the words ‘existing and proposed’.”

The Committee rejects this amendment. It is clearly an important role in the absence of party politics to

look at proposed as well as existing policy. The involvement of Scrutiny Panels in challenging the basis for policy changes under consideration should result in more rigorous and effective policy making decisions. Indeed some members of the Committee and others view it as a very important part of scrutiny work.

“(4) *In sub-paragraph (b)(vii) delete the words ‘through the Chairmen’s Committee’.*”

The Committee rejects this amendment and follows the comments on (2).

“(5) *In sub-paragraph (d)(iv), before the words ‘that extravagance’, insert the words ‘and to ensure’.*”

The Committee accepts this amendment. In preparing P.79/2003, the Committee took the terms of reference of the PAC from the PAC Working Party report and changed it as little as possible. The amendment clarifies the wording.

“(6) *Delete sub-paragraph (d)(v).*”

The Committee rejects this amendment on the basis that (d)(v) as proposed in P.79/2003 requires the PAC to report to the States. This complements paragraph (b)(1) whereby the Scrutiny Panels are required to report to the States.

“(7) *In paragraph (e), after the words ‘a member of the Executive’, insert the words ‘nor of a Scrutiny Panel’.*”

This is a useful clarification therefore the Committee accepts this amendment.

“(8) *Delete paragraph (h) and substitute the following paragraph–*

‘(h) to agree –

- (i) that the Public Accounts Committee shall act as a co-ordinating body for the work of the Scrutiny Panels;**
- (ii) that the Privileges and Procedures Committee shall oversee the prioritisation and allocation of resources to the Public Accounts Committee and Scrutiny Panels;**
- (iii) that the Public Accounts Committee shall report to the States on the operation of the scrutiny function, making recommendations for change as appropriate and in particular, no later than 12 months after the establishment of the Scrutiny Panels making recommendations on the desirability or otherwise of introducing a mechanism to enable the ‘call-in’ of Executive decisions.’ ”**

The Committee rejects this amendment for reasons given in (2) above.

“(9) *Renumber paragraphs and sub-paragraphs where required.*”

The Committee accepts this amendment.

In summary:

- PPC rejects amendments (1), (2), (3), (4), (6) and (8).
- The Committee accepts amendments (5), (7) and (9).