

**MACHINERY OF GOVERNMENT: PROPOSED REFORMS (P.122/2001) - COMMENTS ON AMENDMENTS (1)
TO (5)**

**Presented to the States on 25th September 2001
by the Policy and Resources Committee**



STATES OF JERSEY

STATES GREFFE

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Comments

The Policy and Resources Committee lodged “au Greffe” its report and proposition: “Machinery of Government: proposed reforms” on 7th August 2001. Five sets of amendments have since been proposed by individual members of the States, and the Committee’s comments on these amendments are given below. For ease of reference these are listed in the order in which they were lodged, and the effect of each proposed amendment has been identified by a bullet point and is in italics.

(1) **Machinery of Government: proposed reforms (P.122/2001) - amendments (P.122 Amd.)
(lodged “au Greffe” on 28th August 2001 by Senator C.G.P. Lakeman):**

- *Rename the ‘Procedure Committee’ as the ‘Privileges and Procedure Committee’*

The Committee agrees to the proposed change in title and accepts that as the proposed Procedure Committee will not be working solely on procedural matters, but will also be responsible for matters such as facilities for States members, and the title of ‘Privileges and Procedure Committee’ would be a fair reflection of its broader area of responsibility.

- *Extend the responsibilities of the Privileges and Procedure Committee to include ‘facilities, remuneration, and services for members of the States’;*

The Committee has stated in Appendix 5 of its report and proposition that one of the responsibilities of this new Committee would be ‘to keep under review the accommodation, services and facilities provided for members and officers of the States, and the remuneration of States members’. The Committee considers that this will be an important part of the Committee’s work, and it therefore agrees to the amendment.

- *Extend the responsibilities of scrutiny committees to include the scrutiny of **subordinate** legislation.*

One of the main functions of the scrutiny committees would be to review proposed legislation. In the Committee’s view, the scrutiny committees should be able to scrutinise **all** proposed legislation, including subordinate legislation, and it therefore agrees to the amendment.

- *Extend the role of the proposed Appointments Commission to ensure that ‘senior appointments to the civil service and autonomous and quasi-autonomous public bodies are properly made’.*

In the Clothier Report it is recommended that there should be an Appointments Commission for senior appointments in the Civil Service, and the Policy and Resources Committee agrees with this recommendation. The Committee acknowledges that it could also be desirable for an Appointments Commission to have responsibility for other senior public appointments, as proposed in the amendment.

The Committee is therefore willing to accept the amendment, and proposes to report back to the States with more detailed recommendations for the composition and terms of reference of an Appointments Commission. It is possible that the proposal will need to be refined and this would be addressed when the Committee reports back to the States. For example, it may be felt to be necessary to make separate arrangements for judicial appointments.

- *Instead of the proposed Liaison Group, it is proposed that **the Policy and Resources Committee, in consultation with the Comité des Connétables, will bring forward proposals on the future relationship between the Parishes and other areas of public administration** (four areas are specified, including the position of the Parish of St. Helier).*

The Committee has recommended that the Council of Ministers should establish a Liaison Group, and this group would be required ‘to consider service delivery and resource allocation issues as between the Executive and the parishes and to keep under review the relationship between the Executive and the parishes.’

Instead of a Liaison Group, Senator Lakeman has proposed that the Policy and Resources Committee should bring forward proposals for the future relationship between the Parishes and other areas of public administration.

The Committee accepts the amendment because it would enable work on this matter to start at an early date. However, it should be borne in mind that the Policy and Resources Committee would be disbanded with the introduction of a ministerial system, and at that stage it proposes that the work would be continued by a Liaison Group, to be established by the Council of Ministers.

(2) **Machinery of Government: proposed reforms (P.122/2001) - second amendments (P.122 Amd.(2)) (lodged "au Greffe" on 28th August 2001 by Deputy M.E. Vibert of St. Brelade):**

- *Replace the present committee system with a 'Combined Committee/Ministerial system'*

There are fundamental differences between the Committee's proposals and Deputy Vibert's amendments, and these differences have already been commented on in some detail in section 5 of the Committee's report accompanying P.122/2001.

The Committee does not believe that a combined Committee/ Ministerial system would work either effectively or efficiently, nor that it offers the best option for the government of Jersey. This amendment, together with the other amendments proposed by Deputy Vibert, is therefore opposed.

- *The States would appoint the Chief Minister and the team of ministers (i.e. the reference to the Chief Minister nominating a team of ministers would be removed)*

The Committee believes that it is the Chief Minister who should nominate a team of ministers for approval by the States. The Chief Minister will be the head of a team and it is imperative that individual ministers should be able to work well with each other and with the Chief Minister. If the States were to be able to appoint ministers, possibly without proper regard to the views of the Chief Minister, one could have a highly unsatisfactory situation whereby one or more ministers would be appointed who were incompatible with the Chief Minister and the other ministers.

- *In addition to each minister, the States would 'appoint up to four other members to serve on a Committee to be responsible for the strategy and policy of each Department of government, with members only being allowed to serve on one such Committee.'*

The Committee is unclear about how the minister and Committee members would work together under Deputy Vibert's amendment. If the Committee members are responsible for strategy and policy, this would appear to detract from the minister's authority, as he or she would presumably have to refer to the Committee any decisions which happen to have strategic or policy implications. In addition, the minister could be placed in a very difficult position if his or her committee did not agree with a decision taken by the Council of Ministers.

One major implication of the proposed amendment is that virtually all members of the States will have a role in the executive side of government. This will mean that the scrutiny function will not be independent of the executive, because the majority of members exercising a scrutiny function would also have a role in the executive.

In contrast, under the Committee's proposals the Executive authority will be subject to a formal system of independent scrutiny.

- *There would be a 'Public Accounts and Procedure Committee', combining the functions of the proposed Procedure Committee and Public Accounts Committee.*

The Committee does not consider that it would be appropriate to combine these two committees, as they will have very different functions. The Public Accounts Committee will be charged with scrutinising all aspects of public expenditure, whereas the Procedure Committee would be responsible for all matters of States procedure, as well as facilities, services and remuneration for States members. Combining the two functions in one body would be very likely to dilute its effectiveness.

With regard to the Public Accounts Committee, the Committee also believes that it is important that this committee should be independent of other aspects of government. The Public Accounts Committee may, for example, be called upon to examine expenditure relating to the States Assembly, and its independence would be compromised if it also had a responsibility for Assembly procedure.

- *The Chairmen and members of the scrutiny committees would be neither Ministers nor Assistant Ministers, and they would have no direct Committee interest in the area to be scrutinised.*

The Committee agrees with the principle that those who are in the scrutiny committees should not be involved in an executive capacity in the area to be scrutinised, but it does not accept that they should also have executive responsibilities. Under its own proposals the Committee is recommending that the Chairmen and members of the scrutiny committees should not be in the executive, and the amendment is therefore opposed.

(3) Machinery of Government: proposed reforms (P.122/2001) - third amendments (P.122 Amd.(3)) (lodged “au Greffe” on 11th September 2001 by Deputy P.N. Troy of St. Brelade):

- *The number of those who are not involved in the executive will be greater than those who are by a margin of at least ten per cent of the total membership of the States.*

The Committee is willing to accept this amendment, which it considers will maintain a reasonable differential in numbers between those in the Executive function and those who are not involved in the Executive. There are presently 53 members of the States, and the effect of this proposal means that there will be a maximum of 23 members involved in the Executive, and a minimum of 30 who would not be so involved. As Deputy Troy has indicated, his amendment has been presented in a way that the differential could immediately be adjusted if the Assembly should decide in the future to reduce the number of elected members.

The Committee believes that the key point of principle is that the Executive should be in the minority, and it therefore accepts the amendment.

(4) Machinery of Government: proposed reforms (P.122/2001) - fourth amendments (P.122 Amd.(4)) (lodged “au Greffe” on 11th September 2001 by Deputy R.C. Duhamel of St. Saviour):

- *Any proposition brought before the States by the executive shall only be adopted if approved ‘not only by a majority of all members present, but also by a majority of those who are not involved in the Executive’.*

The Committee does not believe that this proposal would be workable.

If the amendment were to be adopted, and on the assumption that the executive was united, this would mean that any proposition before the States would need the support of about three quarters of members present. The Committee believes that such an arrangement would be unique in parliamentary democracy, where the general principle is that a proposition should receive the support of a simple majority.

(5) Machinery of Government: proposed reforms (P.122/2001) - fifth amendments (P.122 Amd.(5)) (lodged “au Greffe” on 11th September 2001 by Deputy A.S. Crowcroft of St. Helier):

- *The Procedure Committee’s responsibilities should include the production of a Hansard-type transcript of States’ proceedings, and public information services.*

The Committee has already commented on the proposal for a Hansard-type record of States proceedings, and this is to be found in section 8 of the statement that was sent to all States members on 13th September 2001. Having considered Deputy Crowcroft’s amendment, the Committee remains of the view that this is a subject which needs further study, and that further information should be available before the House is asked to take a decision on this matter.

With regard to the second part of the amendment, it is not clear what is actually meant by ‘public information services’. The example of an information bulletin is given in the report accompanying the amendment, but this is not really developed in the report. The Committee believes that further information would also be necessary before a decision could be taken in this matter. It also considers that this is a matter which can be dealt with separately from the debate on the proposals for a ministerial system and a system of scrutiny.