

# STATES OF JERSEY

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

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**Presented to the States on 15th July 2003  
by the Policy and Resources Committee**

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**STATES GREFFE**

## COMMENTS

The Policy and Resources Committee has considered Deputy J.L. Dorey's amendments to the report and proposition of the Privileges and Procedures Committee and its comments are given below. For ease of reference, these comments are listed according to their subject area, in the same way as in Deputy Dorey's report –

### 1. 'Areas of scrutiny panel responsibility' (Amendment (1))

The Committee supports the proposals of the Privileges and Procedures Committee in relation to the division of responsibilities between the four scrutiny panels. Each of their areas of responsibility will be roughly comparable in scope and, taken together, they will cover the full range of the activities of the Executive.

The Committee would agree with Deputy Dorey that the arrangements for scrutiny should not foster an adversarial approach between the executive and scrutiny functions. However, the Committee does not think that this will be a consequence of what is being proposed by the Privileges and Procedures Committee. Deputy Dorey contends that there will be a one-for-one correspondence between the minister for Environment and Public Services and one of the scrutiny panels, but this will not actually be the case. Although there is currently only one committee for both Environment and Public Services, this is a temporary arrangement that applies only to the transitional period, and the States has agreed that in the ministerial system there will be two ministers (and departments) with responsibilities for these areas – a Minister for the Environment and a Minister for Public Services. The terms of reference for the scrutiny panel will therefore cut across departmental boundaries, as they will do for the other three scrutiny panels, and this should help to promote a more corporate approach to the activity of scrutiny.

In addition, the Policy and Resources Committee has assumed that the responsibilities of each scrutiny panel will not simply be defined in relation to the corresponding States departments. For example, the scrutiny panel for Environment and Public Services might decide to examine the environmental performance or policies of other States departments, in addition to the Environment and Public Services Departments, or indeed to look at the performance or policies of the States as a whole.

Deputy Dorey has proposed that two of the scrutiny panels should look at 'Internal Policy', although it is not made clear how their areas of responsibility will be distinguished. The report accompanying the amendments simply states that these panels would be '*generalist ... with a licence to investigate and report on all areas of government activity*'. In the Committee's opinion, this arrangement could easily lead to the confusion or duplication of responsibilities, as the two panels will be unclear about the extent of their areas of activity. It could also mean that certain areas of government would be overlooked by the scrutiny panels.

Deputy Dorey has also proposed that there should be a separate scrutiny panel for draft legislation, partly on the grounds that there is a need for a consistency of approach. The Committee is not persuaded by this argument, as it believes that the scrutiny of draft legislation can be more satisfactorily accomplished by dividing it up between the four scrutiny panels, as proposed by the Privileges and Procedures Committee. Each scrutiny panel will already have a general focus on the area to be covered by a particular item of draft legislation, and it will therefore be in a better position to make an informed assessment than a generalist scrutiny panel for draft legislation. It is accepted that there is a need for a consistency of approach between the scrutiny panels, but the proposed Committee of Chairmen would be in a good position to monitor the situation and ensure that this happens.

The Policy and Resources Committee considers that the recommendations of the Privileges and Procedures Committee should help to ensure that draft legislation will be subject to systematic and thorough scrutiny, and will therefore meet Deputy Dorey's concerns in relation to the current level of scrutiny. It will be noted that the terms of reference for each panel include the scrutiny of all primary legislation, together with the examination of subordinate legislation.

In conclusion, therefore, the Policy and Resources Committee opposes this amendment.

## **2. ‘The Chairmen’s Committee’ (Amendments (2), (4) and (8))**

Throughout the debate on the scrutiny function a very clear distinction has been made between the different roles of the scrutiny panels and the Public Accounts Committee. The role of the Public Accounts Committee will be to scrutinise all aspects of public expenditure, income and assets. The role of the scrutiny panels, in contrast, will be to carry out policy reviews, examine draft legislation, scrutinise international conventions etc.

The Policy and Resources Committee believes that it would be wrong to confuse these different roles by giving the Public Accounts Committee the responsibility of coordinating the work of the scrutiny panels. The Public Accounts Committee is neither senior nor junior to the four scrutiny panels – it is simply different – and it would not be appropriate for any of these five bodies to have a greater degree of authority over the others.

The Committee supports the proposal for the establishment of a Chairmen’s Committee, as recommended by the Privileges and Procedures Committee, to carry out the work of coordinating the scrutiny function, overseeing the prioritisation and allocation of resources to the scrutiny panels, and so on. It is proposed that the membership of the Chairmen’s Committee will include the chairman of the Public Accounts Committee and the chairmen of the four scrutiny panels. The membership will also include two other non-Executive States members (unlike the Public Accounts Committee), thereby helping to ensure that the views of all non-executive members are taken into account.

The Policy and Resources Committee accordingly opposes these amendments, and it supports the Privileges and Procedures Committee’s proposals for the establishment of a Chairmen’s Committee.

## **3. ‘Degree of involvement in policy’ (Amendment (3))**

The Committee agrees with the comments in Deputy Dorey’s report that the policies of the Executive, including draft policies, should be subject to scrutiny. However, the Committee opposes the amendment because it could be interpreted as meaning that the role of the scrutiny panels would be restricted to the examination of existing policies, i.e. because the proposition in its amended form would state that the role of the scrutiny panels will be *‘to consider and report on the policy of the executive’*.

The Committee is of the view that to refer to the ‘policy of the Executive’ in this way would generally be regarded as referring to current policy, whereas the scrutiny panels should be able to examine both existing and proposed policy. Indeed, it is hoped that the scrutiny panels will be able to play a very positive role in the development of policy. This would be very much in line with the States decision on 28th September 2001 to move from a committee to a ministerial system of government (P.122/2001, as amended), in which it was agreed that one of the main functions of the scrutiny panels would be *‘to contribute to the development of policy’*.

## **4. Amendments for the sake of clarity’ (Amendments (5), (6) and (7))**

The Committee agrees that these amendments will provide greater clarity and notes that they are understood to be acceptable to the Privileges and Procedures Committee. The Committee supports these amendments.

## **5. Housekeeping’ (Amendment no. 9)**

The Committee notes that this is a ‘housekeeping’ amendment, relating to the renumbering of paragraphs, and will only be required in the event that any other amendments are approved.