

STATES OF JERSEY



DRAFT AMENDMENT (NO. 52) OF THE STANDING ORDERS OF THE STATES OF JERSEY (P.62/2021): COMMENTS

**Presented to the States on 25th June 2021
by the Corporate Services Scrutiny Panel
Earliest date for debate: 20th July 2021**

STATES GREFFE

COMMENTS

Based not least on experience, the Panel is very clear that reducing the minimum lodging period for the Government Plan lodged in election years, from the current twelve weeks to ten weeks, would unduly erode the ability of individual States Members and Scrutiny Panels to appropriately review and scrutinise the Plan and associated documentation. The Panel solidified its position in relation to the proposition based on the following evidence.

Previous Experience

1. The Government Plan is a large document. For example, the first (2020 to 2023) consisted of 212-pages, with an additional 222-page further information document which included business cases and financial breakdowns. In total the Scrutiny Panels alone reviewed:

- 135 Actions
- 85 Business Cases for Additional Revenue Expenditure, and
- 84 Business Cases for Capital Expenditure

This, along with work undertaken by non-scrutiny Members of the Assembly, led to twenty-three amendments being lodged to alter the Government Plan 2020 to 2023. This was carried out over a 15-week lodging period, 5 weeks longer than the proposition would allow for the first Government Plan of the next Government.

2. As highlighted in [S.R.13/2019](#) the Government Plan Review Panel (the Review Panel), tasked with coordinating scrutiny of Government Plans, found that more time was required to undertake scrutiny, stating:

“In total, 304 individual Actions and Projects have been reviewed through this process (including a vast amount of additional information for the majority of them, such as full business cases – some running into the hundreds of pages), all Government financial information has been assessed, 21 hearings have been held, 42 stakeholder submissions have been received, and all available efficiency and Departmental financial information has been reviewed. The length of time required for proper scrutiny of the Plan, combined with the proximity of the debate to the end of the session (it is due for debate on 26th November, the second last sitting of 2019), does not allow enough time for the Assembly to properly consider the Plan, associated Proposition, and amendments without feeling undue pressure to approve it. This is compounded by the uncertainty around what may happen should the Plan not be approved”¹

3. In 2020, following the increased pressure of the COVID-19 pandemic, the Government Plan 2021 to 2024 was subject to a reduced lodging period of 9-weeks on adoption of [P.72/2020](#) by the Assembly.² A Memorandum of

¹ [S.R.13/2019 Scrutiny Review of the Government Plan: 2020 – 2023, page 20](#)

² P.72/2020 did not seek to alter the lodging period of future Government Plans, indeed it is stipulated for the avoidance of doubt that that proposition would only apply to the Government Plan lodged in 2020.

Understanding (MOU) between the Chief Minister and the Review Panel, published through [R.69/2020](#), was agreed prior to adoption of P.72/2020.

4. The MOU set out, amongst other points, increased liaison through private briefings, given at both officer and Ministerial level, provision of interim draft chapters, provision of background information and Business Cases, enabling of confidential stakeholder engagement by Scrutiny, provision of a draft Government Plan two weeks prior to its lodging and prioritisation of Scrutiny hearings by Ministers.
5. The Review Panel has, in its reports on the Government Plan 2021 to 2024 [S.R.16/2020](#), highlighted a number of continued difficulties faced in scrutiny:

“The Panel found it somewhat unfortunate that the Government chose to lodge the Government Plan 2021-2024 only 9 weeks before the States debate, giving Scrutiny even less time to scrutinise than last year (15 weeks). More time would have allowed better planning for the review process by each Scrutiny Panel and a better understanding of the information that would be required for the review. Furthermore, there were delays in provision of information and scheduling of public hearings, and cancellation of Ministerial briefings despite the Memorandum of Understanding agreed between the Government and Scrutiny to facilitate a smooth process. Although the officers on the Government side were outstanding in their helpfulness and efficacy, unfortunate delays, such as the draft report only being received after 9pm on the 28th September 2020 despite a prior agreed time, exacerbated the pressures that Scrutiny was under.

It was asserted prior to the Plan being lodged that Scrutiny would have plenty of time to undertake its examination concurrently as draft documents and information of Government consultation undertaken would be provided. Parallel review would also be possible in a private manner. However, given the delays noted above, the sheer size of the undertaking, and the 9-week lodging period, this was not always possible. Sadly, the lacking provision of information prior to lodging has led to difficulty engaging with stakeholders due to confidentiality concerns by the Government. Earlier identification of key concerns could have led to more thorough questioning at the very start of the lodging period.”³

Importance of Public Scrutiny

6. Scrutiny of the Government Plan in a transparent, public setting should be a matter of priority. Reduction in the lodging period leads to a shorter time in which the document can be openly consulted upon by Members, diminishing their ability to gain the views of stakeholders and wider public on topics which will otherwise be held as confidential.
7. Availability of Ministers and Government Officers to Scrutiny Panels has, in the experience of this Panel, not always been appropriately prioritised. Therefore, there is concern that a reduced lodging period would compromise the holding of key public hearings and briefings by Scrutiny Panels.

³ [S.R.16/2020 Government Plan Review Panel Report 2021-2024, page 12](#)

Amendment Timetable

8. Analysis and scrutiny by Panels and the wider Assembly of the Government Plan is of vital importance, as seen through the number and adoption of amendments by the Assembly. There were a total of 21 amendments to the Government Plan 2021 to 2024, of these six were accepted by the Council of Ministers, following slight alteration at times, with a further seven being accepted by the Assembly. The Panel itself made three amendments to that plan, all of which were adopted by the Assembly.
9. The Proposition would not automatically allow for any reduction in lodging periods of amendments, as such the minimum lodging period for amendments, and amendments to amendments, to the Government Plan would remain the same as they are presently: 2 weeks and 1 week respectively.
10. This would only allow a maximum of seven weeks for Members and Scrutiny Panels to review and consider the Government Plan and associated items, source evidence and stakeholder views, and then produce and lodge amendments. This risks amendments not being made on the foundation of solid information and contemplation which, in the view of the Panel, will be of detriment to the success of the future Government Plans.

Future Election Timetable

11. Although the Panel is mindful of the defeat of Draft Constitution of the States and Public Elections (Jersey) Law 202- (P.17/2021): Amendment [[P.17/2021 Amd.](#)] Parts 4, and 5 which would have led to the holding of the 2022 ordinary election on 18th May as appose to 22nd June, this does not mean that there will not be further changes in future election timings past 2022, by the States Assembly or indeed Privileges and Procedures Committee of the day.
12. The Panel would suggest that ad-hoc variation agreements, such as P.72/2020, are a more appropriate mechanism than potentially recurrently amending the [Standing Orders of The States of Jersey](#).

Panel Conclusion

13. The Panel is unable to support this proposition. This is based on the undue restrictions that would be placed on both Members and Scrutiny Panels in their work on the Government Plan, the potential for future changes to election dates and the precedent of the variation to the lodging period of the Government Plan 2021 to 2024.
14. The Panel recommends that the proposition is rejected, and in its place an alternative proposition is developed by the Council of Ministers, in liaison with the Privileges and Procedures Committee and Scrutiny Liaison Committee, that would establish a more appropriately detailed and robust Memorandum of Understanding dealing with the matters arising in respect of the passage of the Government Plan through the Assembly (including Scrutiny) in an election year.

15. Should the Proposition be accepted, however, the Panel would strongly recommend that the future Privileges and Procedures Committee re-examines the timings of elections, with a view to ensuring there is no future compromise of the lodging period for the Government Plan in election years. The minimum lodging period should be no less than 12 weeks.