

STATES OF JERSEY

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PRIVILEGES AND PROCEDURES COMMITTEE: REVISED TERMS OF REFERENCE

Lodged au Greffe on 19th April 2005
by the Privileges and Procedures Committee

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to refer to their Act dated 26th March 2002 in which they approved the terms of reference of the Privileges and Procedures Committee, and to agree –

- (a) that responsibility for the overview of the Shadow Public Accounts Committee should rest with the Privileges and Procedures Committee to mirror the arrangements in place for Shadow Scrutiny, and that during the remainder of the shadow period independent members will be appointed by the Privileges and Procedures Committee following consultation with the Finance and Economics Committee;
- (b) that responsibility for electoral reform be transferred from the Legislation Committee to the Privileges and Procedures Committee.

PRIVILEGES AND PROCEDURES COMMITTEE

REPORT

A. Oversight of the Shadow Public Accounts Committee

The Privileges and Procedures Committee, in accordance with P.186/2003 adopted by the States on 27th January 2004, was charged, in accordance with its terms of reference –

- (i) to maintain an oversight of the shadow scrutiny process to ensure that the process is used to develop a robust scrutiny framework after the introduction of ministerial government; and
- (ii) to report to the States on the operation of the shadow scrutiny process, after consultation with the Chairmen and members of the Shadow Scrutiny Panels, at not less than 5 months before the introduction of ministerial government.

The Shadow Public Accounts Committee was appointed following presentation of a proposition prepared by the Finance and Economics Committee to the States entitled Shadow Public Accounts Committee – terms of reference (P.194/2003). With the exception of the provisions set out below for the Chairmen’s Committee set out in P.79/2003 promoted by the Privileges and Procedures Committee, no arrangements were made in the proposition of the Finance and Economics Committee for the oversight of the Shadow Public Accounts Committee or the link up to the shadow scrutiny processes and there is no body charged to advise or recommend to the States new membership or procedures, etc. It would be inappropriate for there to be a continued link through to the Finance and Economics Committee, that being an executive committee of the States, that will become a Ministry in due course.

The Chairmen’s Committee was intended to perform a key co-ordinating role, which linked the oversight of the Shadow Public Accounts Committee back to the Privileges and Procedures Committee. Part (h) of the proposition P.79/2003 adopted by the States in particular stated as follows –

- “(h) to agree that the Chairman of the Public Accounts Committee, the Chairmen of the Scrutiny Panels, and 2 other members of the States not involved in the Executive appointed by the States, shall form a Chairmen’s Committee to –
 - (i) act as a co-ordinating body for the work of the Public Accounts Committee and the Scrutiny Panels;
 - (ii) oversee the prioritisation and allocation of resources to the Public Accounts Committee and the Scrutiny Panels;

report to the Privileges and Procedures Committee on the operation of the scrutiny function and to make recommendations for change as appropriate and, in particular, no later than 12 months after the establishment of the Scrutiny Panels, to make recommendations on the desirability or otherwise of introducing a mechanism to enable the ‘call-in’ of Executive decisions;”.

Extracts from the report supporting P.79/2003 are **attached** in the Appendix.

There is a clear gap here, and the Committee believes that in the interests of orderly review of the process steps should be taken to bring the Shadow Public Accounts Committee within the overall scrutiny framework. This will not impede upon or interfere in the work of the Shadow Public Accounts Committee, but will allow a forum for discussion of improvements and provide for the Privileges and Procedures Committee to promote them and to ensure that there are no gaps between the work of scrutiny and public accounts.

Once ministerial government is in place, and the shadow periods of scrutiny and the Public Accounts Committee have concluded, the overview role of both of these areas will pass from the Privileges and Procedures Committee to the Chairmen’s Committee, and this change is being provided for in the revised Standing Orders.

B. Electoral Reform

Public elections are regulated by the Public Elections (Jersey) Law 2002, which was sponsored by the Legislation Committee on behalf of the Comité des Connétables. Direct administration of public elections and the electoral register has been, and will continue to be, a matter for the Comité des Connétables and its successor, while the matter of over-arching electoral policy has historically been an issue for the Legislation Committee to address. Nevertheless, one of the consequences of the transition to ministerial government is that the Legislation Committee will soon cease to exist in its current form.

In fact, the Legislation Committee has, over the course of the last 3 years, been engaged in a process of reviewing and divesting itself of certain responsibilities, including oversight of electoral reform, which might fall squarely within the terms of reference of a future ministry. It is envisaged that those roles and responsibilities which remain, such as analysis of topic reports produced by the Law Commission, will be handled by a new advisory panel, led by a Assistant Minister, drawing in Members from both the Executive and Non-Executive arms of government.

Discussions have been ongoing since October 2002 involving the Committee, the Legislation Committee and, more recently, the Policy and Resources Committee, on the matter of responsibility for electoral reform under the new system of government. All parties have agreed that it would be appropriate for future oversight of electoral policy to pass to the Privileges and Procedures Committee. However, a literal interpretation of the Committee's existing terms of reference suggests that matters concerning the conduct of elections and electoral law fall outside its jurisdiction. Formal permission to extend the Committee's original terms of reference is therefore sought.

Committee members have already begun to play a positive rôle in the process of electoral reform through their membership of the Joint Working Party on Electoral Reform, which has recently published a consultation paper on proposals for change (R.C.7/2005 refers). The purpose of the proposition is to formalise the arrangement.

Extracts from P.79/2003 relating to the work of the Chairmen's Committee

Proposition P.79/2003

- “(b) to agree that each Scrutiny Panel, within its designated area of policy, shall have the following terms of reference –
- (i) to hold reviews into such issues and matters of public importance as the Panel, after consultation with the Chairmen's Committee, may decide, and to report to the States with recommendations if appropriate;
 - (vii) to liaise with the Public Accounts Committee through the Chairmen's Committee to ensure appropriate co-ordination of the scrutiny function;”
- “(h) to agree that the Chairman of the Public Accounts Committee, the Chairmen of the Scrutiny Panels, and 2 other members of the States not involved in the Executive appointed by the States, shall form a Chairmen's Committee to –
- (i) act as a co-ordinating body for the work of the Public Accounts Committee and the Scrutiny Panels;
 - (ii) oversee the prioritisation and allocation of resources to the Public Accounts Committee and the Scrutiny Panels;
 - (iv) report to the Privileges and Procedures Committee on the operation of the scrutiny function and to make recommendations for change as appropriate and, in particular, no later than 12 months after the establishment of the Scrutiny Panels, to make recommendations on the desirability or otherwise of introducing a mechanism to enable the ‘call-in’ of Executive decisions;”.

Report supporting P.79/2003

- “8.2 Panels will prepare an annual, or six-monthly, plan of such reviews in advance. The terms of reference require the Panel to consult with the Chairmen's Committee (see Section 17) before finalising topics for review to ensure that the overall programme of the Panels is co-ordinated. In addition, as specified later in this report, Scrutiny Panels will need to adopt a realistic and achievable work programme within the financial and manpower resources available to them.

Chairmen's Committee

- 14.1 The relationship between the Scrutiny Panels and the Public Accounts Committee is considered in more detail in Section 37 below. The Committee believes that, despite the important differences between the two, there will be a need for close co-ordination between the scrutiny and the audit function. Liaison through the Chairmen's Committee will ensure close co-operation, enabling programmes of work which will maximise the overall benefit of both scrutiny and audit.”

“17. The Chairmen's Committee

- 17.1 Coordination of the scrutiny function will be vital to ensure that there is no unintentional overlap between the work being undertaken by the various Panels and to ensure that all aspects of the Executive's work are covered over a period of time. In addition it will be necessary for the operation of the scrutiny system to be kept under review so that appropriate changes can be recommended if necessary.
- 17.2 The Committee proposes that the Chairmen of the Scrutiny Panels, together with the Chairman of the Public Accounts Committee, should form a Chairmen's Committee which would act as the co-ordinating

body for the scrutiny function. To ensure that the views of all non-Executive members were taken into account it is suggested, as set out in the Committee's First Report, that two other non-Executive members, who may or may not be members of Scrutiny Panels, should be elected by the States to sit on the Chairmen's Committee. The Chairmen's Committee would liaise as appropriate with the Privileges and Procedures Committee to ensure that arrangements for scrutiny are kept under review in the light of the experience gained by the Panels."