

**COMMITTEES OF THE STATES: DELEGATION OF FUNCTIONS TO SUB-COMMITTEES**

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**Lodged au Greffe on 7th September 1999  
by Deputy T.J. Le Main of St. Helier**

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**STATES OF JERSEY**

**STATES GREFFE**

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## **PROPOSITION**

### **THE STATES are asked to decide whether they are of opinion -**

- (1) to agree in principle that Committees of the States should not delegate any function to a sub-committee unless the Committee concerned has in place procedures to provide that an applicant aggrieved by the refusal of the said sub-committee to grant an application is given an automatic right of appeal to the Committee against that decision;
- (2) to agree that any applicant pursuing such an appeal should have the right to appear before the Committee in person, or through an agent or legal representative, when the matter is considered;
- (3) to charge the Policy and Resources Committee to prepare the necessary amendments to the States of Jersey Law 1966, as amended, to give effect to the proposals.

DEPUTY T.J. LE MAIN OF ST. HELIER

## Report

I had always been advised, particularly when I was a member of the Housing Committee, that the delegated sub-committee of a committee could only listen to appeals etc. and had under the law to report back their findings to the Committee who would make the final decision, but on checking the States of Jersey Law 1966, as amended, I note that it gives any Committee a general power to set up sub-committees. The relevant Article is in the following terms -

### ARTICLE 32

#### *Power of Committees to appoint members to Sub-Committees*

*(1) Any Committee may appoint as members of a Sub-Committee of the Committee any persons, whether members of the States or not, and any person so appointed may exercise all the powers of a member of the Sub-Committee other than a power which involves the expenditure of public monies.*

*(2) The term of office of persons appointed under this Article shall be such as the Committee may determine and the Committee may revoke any such appointment at any time.*

Article 36A of the Law gives Committees specific power to delegate any function conferred on it by a law to its President, a sub-committee of its members or to an officer. This was an amendment to the Law made in 1996 and enables Committees to delegate functions that, in law, have to be exercised by the Committee. In these circumstances, if a function is delegated to a sub-committee, the decision taken by the sub-committee is, in law, a committee decision. As members will be aware, many committees have delegated functions in this way, and one of the best known examples is, perhaps, the Planning and Environment Committee, who have delegated to the Applications Sub-Committee the power to determine certain planning applications.

Article 36(4) of the States of Jersey Law 1966 enables Committees to regulate their own procedure (within the constraints imposed by the Law and by Standing Orders). In practice, as members will know, committees use sub-committees in an attempt to operate more efficiently and to reduce the amount of time spent by all members in meetings. I nevertheless find it wrong and unjust that decisions can be made on behalf of a committee by a sub-committee, often comprising two or three members, and, more worryingly, which could include persons who are not States members, and the decision/appeal of the applicant could be with the sub-committee having been delegated to make the final decision on behalf of the committee. Decisions at a main committee level are majority decisions, with the President often having the casting vote, so that, in theory, it is possible for a sub-committee who have not supported an applicant to be overruled by the main committee by a majority, with the members of the sub-committee actually being in the minority. My amendment is therefore intended to give any applicant, or his agent or legal adviser, an automatic right to approach the full committee once they have been unsuccessful in their application/appeal to any sub-committee delegated to deal with the matter on behalf of the committee. This amendment is therefore in the interests of justice and fair play by granting an automatic right of appeal to any applicant, not necessarily a States member, to the full committee.