

STATES OF JERSEY

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MACHINERY OF GOVERNMENT: ESTABLISHMENT OF SCRUTINY PANELS AND PUBLIC ACCOUNTS COMMITTEE (P.79/2003) – SECOND AMENDMENTS

Lodged au Greffe on 1st July 2003
by Deputy J.L. Dorey of St. Helier

STATES GREFFE

MACHINERY OF GOVERNMENT: ESTABLISHMENT OF SCRUTINY PANELS AND PUBLIC
ACCOUNTS COMMITTEE (P.79/2003) – SECOND AMENDMENTS

- (1) *In paragraph (a), delete the list of proposed areas of responsibility, and substitute–*
 - “(i) Corporate Services, Policies and External Relations;
 - (ii) Internal Policy 1;
 - (iii) Internal Policy 2;
 - (iv) Draft legislation.”
- (2) *In sub-paragraph (b)(i), for the words “Chairmen’s Committee” substitute the words “Public Accounts Committee”.*
- (3) *In sub-paragraph (b)(ii), delete the words “existing and proposed”.*
- (4) *In sub-paragraph (b)(vii) delete the words “through the Chairmen’s Committee”.*
- (5) *In sub-paragraph (d)(iv), before the words “that extravagance”, insert the words “and to ensure”.*
- (6) *Delete sub-paragraph (d)(v).*
- (7) *In paragraph (e), after the words “a member of the Executive”, insert the words “nor of a Scrutiny Panel”.*
- (8) *Delete paragraph (h) and substitute the following paragraph–*
 - “(h) to agree –
 - (i) that the Public Accounts Committee shall act as a co-ordinating body for the work of the Scrutiny Panels;
 - (ii) that the Privileges and Procedures Committee shall oversee the prioritisation and allocation of resources to the Public Accounts Committee and Scrutiny Panels;
 - (iii) that the Public Accounts Committee shall report to the States on the operation of the scrutiny function, making recommendations for change as appropriate and in particular, no later than 12 months after the establishment of the Scrutiny Panels, making recommendations on the desirability or otherwise of introducing a mechanism to enable the ‘call-in’ of Executive decisions.”
- (9) *Renumber paragraphs and sub-paragraphs where required.*

DEPUTY J.L. DOREY OF ST. HELIER

REPORT

Introduction

As is customary, the amendments are drafted in the same sequence as the original Proposition. For the assistance of Members, however, the amendments fall into 5 groups–

- Amendment (1) – areas of Scrutiny Panel responsibility;
- Amendments (2), (4) and (8) – the Chairmen’s Committee;
- Amendment (3) – Degree of involvement in policy;
- Amendments (5), (6) and (7) – amendments for the sake of clarity;
- Amendment (9) – housekeeping.

1. Areas of Scrutiny Panel responsibility

In general, I am concerned that, in terms of the Committee’s proposed remits/names for the Scrutiny Panels, what is being advocated is an approach rooted in the old silo mentality, rather than reflecting a corporate approach. In particular –

A one-for-one correspondence between the Committee/Ministry for Environment and Public Services, and one of the new Scrutiny Panels, is likely to foster an adversarial approach – a Scrutiny Panel’s findings/recommendations will surely have more clout if they are seen to be directed at corporate thinking, rather than encouraging the perception that members of a particular Scrutiny Panel have an axe to grind with a particular area of government; and

One of the areas in which our government has traditionally performed particularly poorly, has been that of scrutiny of draft legislation. In a relatively small Parliament, and with a sizeable minority of Members debarred from the scrutiny function by virtue of their membership of the Executive, it seems most unlikely that all 4 proposed Scrutiny Panels could be adequately staffed, politically, in terms of effective scrutiny of draft legislation. In addition, it seems to me that draft legislation needs and deserves a consistent approach, based on the common characteristics of all draft Law, and that the Committee’s approach would tend to perpetuate the evils of the present system, whereby draft legislation is supposed to be scrutinised by the sponsoring Committee – a job more honoured in the breach than in the observance.

It would, of course, be open to the 2 ‘generalist’ Scrutiny Panels to analyse draft Law in terms of its *policy* implications.

For all of these reasons, I am proposing that there should be one Scrutiny Panel covering all corporate and external relations issues, 2 generalist Panels with a licence to investigate and report on all areas of internal government activity – as far as possible synchronised with Public Accounts Committee activity – and a fourth Panel specialising in the vetting of all draft legislation.

2. The Chairmen’s Committee

The States have already agreed (Act of 28th September 2001) that the Public Accounts Committee should be “comprised of the chairmen of the scrutiny committees together with at least one other member of the States not involved in the Executive”. The Privileges and Procedures Committee’s proposal would therefore involve consultation between 2 agencies– the Public Accounts Committee and the proposed Chairmen’s Committee – whose membership would be practically identical – a recipe for confusion and delay.

Far better, surely, to have a clearly-defined role for the Public Accounts Committee, in co-ordinating the work of the Scrutiny Panels in order to avoid duplication, and a clearly-defined role for the Privileges and Procedures Committee in overseeing the allocation of resources to the Scrutiny function.

In the interests, again, of ensuring clear lines of accountability, it is surely preferable that the Public Accounts Committee should report to the States, rather than to the Privileges and Procedures Committee, on the operation

of scrutiny, particularly during the crucial first 12 months.

3. Degree of involvement in policy

I have long been concerned at the potential misuse of the scrutiny function – the possibility that scrutiny might be used simply as a method of deferring all decisions, or promoting endless debate, prematurely, on policy at the earliest stages of development.

While it is perfectly reasonable that published policy (including draft policy in the form of the Jersey equivalent of Green or White Papers) should be subject to scrutiny, my amendment would seek to make it clear that simple discussions between a Minister and departmental officers about possible future policy developments should be able to take place outside the full glare of publicity.

4. Amendments for the sake of clarity

Amendments (5), (6) and (7) are included purely in the interests of clarity, and I understand them to be acceptable to the Privileges and Procedures Committee.

Amendment (5) is required for the sentence in question to make grammatical sense.

Amendment (6) recognises that the existing sub-paragraph (d)(v) is actually concerned with *powers* rather than *terms of reference*, and is in any case more effectively expressed at paragraph (f).

Amendment (7) makes it clear that Chairmanship of the Public Accounts Committee would be the only official job of the Member in question.

5. Housekeeping

Amendment (9) is the standard housekeeping provision, required in the event that any of the other amendments are approved.

The amendments have no manpower or resource implications beyond those of the Privileges and Procedures Committee's proposition – and indeed, in respect of (2), (4) and (8), may well reduce expenditure by clarifying and simplifying procedures.

Re-issue note

The proposition has been re-issued as the number (9) was inadvertently omitted before the words 'renumber paragraphs and sub-paragraphs where required' at the end of the proposition.