

STATES OF JERSEY



DRAFT REFERENDUM (REFORM OF STATES ASSEMBLY) (JERSEY) ACT 201- (P.5/2013): FOURTH AMENDMENT

**Lodged au Greffe on 12th February 2013
by the Deputy of St. Ouen**

STATES GREFFE

DRAFT REFERENDUM (REFORM OF STATES ASSEMBLY) (JERSEY)
ACT 201- (P.5/2013): FOURTH AMENDMENT

PAGE 19, SCHEDULE –

- (1) In the Ballot Paper in the Schedule, for the words beginning “The Electoral Commission has put forward” and ending “6 large electoral districts.” substitute the words –

“Having considered the recommendations of the Electoral Commission, the States Assembly has put forward 2 ways of changing this system.

Both reform options would reduce the number of States members to 48 and introduce 6 large electoral districts.”.

- (2) In the Ballot Paper in the Schedule, in Reform option A –
- (a) for the words “42 States members” substitute the words “48 States members”;
 - (b) for the words “7 Deputies” substitute the words “8 Deputies”.
- (3) in the Ballot Paper in the Schedule, in Reform option B –
- (a) for the words “42 States members” substitute the words “48 States members”;
 - (b) for the words “30 Deputies” substitute the words “36 Deputies”;
 - (c) for the words “5 Deputies” substitute the words “6 Deputies”.

DEPUTY OF ST. OUEN

REPORT

This amendment gives States members the opportunity to consider whether 48 members rather than 42, is the optimal number of States members necessary to support the government of this Island, before the reform options are put to the electorate in a referendum.

I accept that some members of the Public believe that there are too many States members; however, there is little evidence to show that this is the case.

It should be remembered that previously, the States had decided that 49 members would be the optimal number necessary to support our current machinery of government. For the most part, the Electoral Commission seems to have ignored this decision and simply estimated that the number of States members required is 42. It is true, that the number 42 fits with the move to 6 large electoral districts, but this on its own should not be the overriding factor, indeed 48 would meet the same criteria.

Equally surprising is their conclusion that an Assembly of 42 members would be able to perform all functions of government and scrutiny more effectively and efficiently than a larger number. Where is the evidence?

Some may say that the same reasoning could be applied to the overall number of public employees, however in reality we continue to see the numbers of employees increasing, especially at managerial level in all areas of government.

Indeed, I would argue that there is a distinct lack of evidence at this time to support using the number 42 as the foundation for the reform options proposed by the Electoral Commission.

Although I acknowledge that the terms of reference agreed for the Electoral Commission included the number of States members, the States separately decided to review the machinery of government. This review is still underway, a fact that the Electoral Commission note in their report, where it is stated: "The decision on the appropriate number of members of the Assembly is related in part to the machinery of government, as changes to the structure of government can affect the numbers of members required.". It is also unclear what consultation has taken place between the Electoral Commission and the PPC Sub-Committee tasked with undertaking this review, or whether they have taken into account the Sub-Committee's initial findings, although they do record that they have seen the interim report.

I too have seen the draft interim report and note it was the Sub-Committee's considered view that the best way of answering the question "how many States members are needed?" would be to devise the suitable structure for government first. Having devised the system, it would then be comparatively straightforward to calculate the minimum number of States members needed for the system to operate. I fully endorse this view.

The other issue that must be considered is what effect reducing the number of States members to 42 will have on the rule reflecting the Clothier recommendation for a "minority" Executive, now embodied in Article 25(3) of the States of Jersey Law 2005.

Clothier envisaged 3 or 4 scrutiny panels, the PAC, 15 to 20 members of the Executive, and recommended that there should be a minority Executive. He also envisaged around 7 Ministers. We now have 10 Ministers and 13 Assistant Ministers with proposals for a further 2 Ministers, without the States considering a previous recommendation to have a Minister for Children. In addition, we have 5 scrutiny panels, compared to Clothier's suggested 3 to 4, plus PAC, and I know that even with this number of panels, there are difficulties in effectively scrutinising all major policy proposed by the executive. Furthermore, some members, including Senator Bailhache, have suggested that there is a need for a further panel to scrutinise legislation. If this is found to be necessary, more members, not less, would be required to be involved in scrutiny. It is difficult to imagine how all of these positions will be filled with only 42 members.

Even if we do not have the 2 new Ministers, it is proposed that the Executive will comprise 23 members, leaving only 19 members to man scrutiny and the PAC. I do not believe that this is acceptable. Clothier recommended that we should have a minority Executive, and with 42 members as proposed by the Commission, we will not have that situation. There is also an assumption that the States would wish to rescind the Troy Rule and as a result the Executive would be permanently in the majority.

The Commission notes that it would be for the States to consider, in due course, if their recommendations were accepted, whether the Troy Rule should be adapted or abolished, having regard to the smaller number of members in the States Assembly. Why restrict the options to improve governance and limit the choices available to improve the working of government before these matters are fully addressed? Would it not be better to agree the main reform packages first and then review the numbers of States members, when the machinery of government review is concluded?

This amendment simply allows for this to happen, whilst at the same time ensuring that the main changes for reform proposed by the Electoral Commission can be put to the public in a referendum.

With insufficient checks and balances, we could end up with greater power residing in the hands of the civil servants, or a particular group of Ministers exercising undue control over the Assembly. I am certain the public would not wish to see either scenario becoming a reality.

With a membership of 48, the Executive will be 22 under the requirements of the Troy Rule, with 26 members available for scrutiny and the PAC. If following the machinery of government review it is decided to change the structure, then the States could adjust the number of members accordingly.

Financial and manpower implications

There are no financial or manpower implications arising from asking the public this amended question in the referendum.