

STATES OF JERSEY



ELECTED SPEAKER AND DEPUTY SPEAKER OF THE STATES ASSEMBLY: SELECTION AND APPOINTMENT (P.84/2017) – SECOND AMENDMENT (P.84/2017 Amd.(2)) – COMMENTS

**Presented to the States on 7th November 2017
by the Chairmen's Committee**

STATES GREFFE

COMMENTS

This amendment is not supported by the Chairmen's Committee. The Committee considers it to be an unnecessary, problematical and unjustified departure from the existing framework for Scrutiny.

It is not the case, as inferred in the report to the Amendment, that there is inadequate capacity amongst the existing Scrutiny Panels to undertake effective work on this matter. Both Panels referred to are fully aware of the current Proposition and potential subsequent stages, have planned accordingly and foresee no capacity issues. As is usual with matters that cut across Panel remits, the Chairmen's Committee is also involved in a co-ordinating role and to help ensure resources are appropriately allocated.

Although not anticipated, should it be necessary or advantageous to do so, the Committee already has the additional option to establish a dedicated Review Panel to scrutinise this matter under [Standing Order 145A](#).

The report suggests that this is '*an exceptionally important piece of legislation that affects all States Members which is why membership of the Panel should be drawn from Ministers or Assistant Ministers and all sides of the Assembly*', and '*an exceptional case where a Panel would not be scrutinising ministerial legislation*'. It also asserts that '*this Panel would need to be balanced in terms of views on the matter*'. All points are questioned by the Committee, for reasons including –

- It is not an '*exceptional case*', as it falls clearly within existing remits.
- All propositions and legislation are a matter for all Members. No special scrutiny arrangements have been required for any extremely important, Island-wide topics scrutinised over the years. Examples in this Session alone include the care of children, living on low income, discrimination legislation and the future hospital.
- We query the idea that this proposition, whilst certainly significant, is somehow more important and far-reaching to Islanders than topics such as those outlined above, and therefore not within the capabilities of the current Scrutiny membership to scrutinise.
- Scrutiny Panels operate objectively on all matters on behalf of all Members of the Assembly, by whom we are appointed and to whom we are accountable.

In addition, the proposed abandonment of the crucial 'minority executive' principle (established by the 'Troy Rule') is of significant concern. This must not be compromised within our current system of government, and certainly not in isolation of a far more comprehensive review and analysis of the machinery of government by a body such as PPC.

The Committee has previously [written to the Chief Minister](#) on the matter of blurring the lines between the executive and non-executive branches. The following extract from our correspondence highlights a comparable issue in the Isle of Man –

We draw your attention to the 2016 report [Review of the Functioning of Tynwald](#) undertaken by Lord Lisvane. Chapters 6 and 7 are of particular note,

including the observations in relation to 'Departmental Members'... These include:

'Perhaps the most difficult element to defend to the wider world is the fact that, whatever may be claimed for the ability of Departmental Members to free themselves of Government responsibilities and criticise other parts of the same Government with true independence, it is the case that 26 out of 30 eligible Members of Tynwald, or 87%, are in Government.'

'This lack of evident separation of roles between Parliament and the Executive means that the Isle of Man may be seen to fall short of the highest standards of parliamentary governance. This has wider reputational risks.'

For all of the reasons outlined, we do not consider this amendment to be well-conceived. It fails to understand the independence, roles and functions of Scrutiny, and we therefore ask the States to reject it.