

STATES OF JERSEY



DRAFT STATES OF JERSEY (DEPUTY CHIEF MINISTER) AMENDMENT LAW 202- (P.33/2024): COMMENTS

Presented to the States on 4th July 2024
by the Corporate Services Scrutiny Panel

STATES GREFFE

COMMENTS

Introduction and Context

1. The proposition *Draft States of Jersey (Deputy Chief Minister) Amendment Law 202-* [P.33/2024] (hereafter the “the draft Amendment Law”) proposes to amend the *States of Jersey Law 2005* (hereafter “the 2005 Law”) to primarily enhance the Deputy Chief Minister role. The proposition *Amendment to Standing Orders – Deputy Chief Minister* [P.34/2024] should be viewed in conjunction with the draft Amendment Law as it provides for the necessary amendments to the Standing Orders to complement the draft Amendment Law, should the States Assembly adopt the draft Amendment Law.
2. The adoption of the draft Amendment Law will provide the following changes to role of the Deputy Chief Minister:
 - The Chief Minister will be able delegate specific responsibilities to the Deputy Chief Minister without being required to appoint the Deputy Chief Minister as an Assistant Chief Minister first.
 - The Chief Minister will be able to delegate functions vested in the Chief Minister to the Deputy Chief Minister. This would be in addition to the current position where functions can already be delegated to an Assistant Chief Minister and, in respect of certain functions, to an officer.
 - The Deputy Chief Minister will be able to resign from the role in accordance with the 2005 Law. This is currently omitted from the Law, despite the provision for the Chief Minister to appoint and dismiss a Deputy Chief Minister (consequential amendment).
 - Arrangements for the Chief Minister in respect of voting for Scrutiny Panel Chairs and Members will also apply to the Deputy Chief Minister.
3. The draft Amendment Law also provides the opportunity for further consequential ‘housekeeping’ amendments which are unrelated to the Deputy Chief Minister role, however, are being proposed simultaneously.

Scrutiny of the Proposals

4. The Corporate Services Scrutiny Panel (hereafter the “the Panel”) received an officer-led briefing on the proposals of the draft Amendment Law on 2nd April 2024.
5. The Panel understands that the draft Amendment Law observes the Deputy Chief Minister role from a legal and not a political perspective.
6. The Panel heard during the briefing that currently, in accordance with the 2005 Law, the Chief Minister shall appoint one of the Members of the Council of Ministers to be Deputy Chief Minister. However, that current provisions within

the 2005 Law limit how the Deputy Chief Minister can perform their functions. Therefore, where the Deputy Chief Minister is deputising for the Chief Minister, responsibilities are currently being delivered in a bureaucratic and informal manner.

7. The Panel understands that the primary legal function of the Deputy Chief Minister role is to discharge the functions of the Chief Minister during temporary absence, incapacity or vacancy of the Chief Minister. In addition, to deputise for the Chief Minister. Notwithstanding this position, as the 2005 Law places limitations on how the functions can be delivered, they are currently being delivered without formal accountability. Therefore, the Panel observed that the draft Amendment Law aims to allow the Chief Minister to legally delegate to the Deputy Chief Minister the functions and responsibilities in respect of their portfolio, thereby removing the current limitations and providing the necessary accountability.
8. The Panel heard that when developing the role, comparisons were sought from other jurisdictions including the United Kingdom, Scotland, Australia and New Zealand. The Panel was informed that the outcome of the comparative analysis demonstrated a broad variation in how the role was structured and functioned across the jurisdictions considered. Furthermore, that a narrow approach was agreed as the preferred option to take forward for Jersey, whereby the proposals do not seek to expand the Deputy Chief Minister role, but rather enhance the role by providing for the following provisions within the 2005 Law (and associated Standing Orders):
 - Enabling the Chief Minister to delegate responsibilities and functions from the Chief Minister portfolio to the Deputy Chief Minister.
 - Enabling the Deputy Chief Minister to answer States questions on matters that have been delegated to the Deputy Chief Minister.
 - Enabling the Deputy Chief Minister to lodge propositions, present reports, comments and make statements on matters delegated to the Deputy Chief Minister.
9. The Panel highlights that rectifying the current limitations within the 2005 Law, will provide the Deputy Chief Minister with the same powers as an Assistant Chief Minister when working within the portfolio of the Chief Minister.
10. Furthermore, that the proposed changes will also provide the Deputy Chief Minister with more presence and will improve the clarity of the role from the public's perspective. Particularly, in respect of raising awareness of who deputises for the Chief Minister when they are temporarily absent, incapacitated or the role is vacant.
11. The Panel also observed that currently the 2005 Law provides for the appointment and dismissal of a Deputy Chief Minister, however, a provision for the Deputy Chief Minister to resign does not exist within the 2005 Law. Therefore, the draft Amendment Law aims to rectify this through including a provision that will allow for the Deputy Chief Minister to resign.

12. The Panel was informed that at the time of developing the proposals for the draft Amendment Law in respect of the Deputy Chief Minister role, the opportunity was also taken to make further minor ‘housekeeping’ changes and updates to words used within the 2005 Law, where necessary, and to align the 2005 Law with current drafting practices. The Panel understands that these changes will be conducted by the consequential amendments which are proposed by the draft Amendment Law.
13. The Panel understands that the Privileges and Procedures Committee (PPC) was also briefed on the proposals and was informed that the PPC is supportive of the proposals being brought by the draft Amendment Law.

Panel’s Observations

14. The Panel is aware that further amendments to the 2005 Law are being developed and that it is anticipated that these amendments will be finalised later this year. Therefore, during the briefing the Panel sought clarity on why the draft Amendment Law was being prioritised and lodged separately and ahead of developing these further amendments.
15. The Panel understands that a decision was taken to develop the workstream in stages, considering that the proposals being brought by the draft Amendment Law were considered to be uncomplicated. The Panel also heard that the further potential amendments to the 2005 Law being finalised for later this year were still being developed and were only in the preliminary stages. Therefore, it was deemed appropriate to lodge the proposals in stages and separately for debate by the States Assembly.

Conclusion

16. It is the Panel’s view that through the adoption of the draft Amendment Law, the arrangements that are already in place for Assistant Ministers will be mirrored for the role of the Deputy Chief Minister. This will provide for the Chief Minister to legally delegate specific responsibilities to the Deputy Chief Minister and will remove the current limitations on the role.
17. The adoption of the draft Amendment Law will also provide consistency in respect of the current approach and reduce the bureaucracy around the Deputy Chief Minister undertaking any Chief Minister delegated responsibilities.
18. Having been made aware of the development of potential further amendments to the 2005 Law currently under consideration by the Chief Minister, the Panel intends to stay abreast of this widening workstream.
19. The Panel is appreciative of the officer-led briefing received and as no concerns have arisen through its scrutiny of the proposals, the Panel confirms its support of the draft Amendment Law as proposed.