

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

24th October, 2018

Proposition No. P.2018/78

STATES ASSEMBLY & CONSTITUTION COMMITTEE

AMENDMENTS TO
THE RULES OF PROCEDURE OF THE STATES OF DELIBERATION AND THEIR
COMMITTEES

AMENDMENT

Proposed by: Deputy R G Prow
Seconded by: Deputy A C Dudley-Owen

For proposition 1(aa) substitute the following propositions –

"1(aa) To amend the Rules of Procedure of the States of Deliberation and their Committees with immediate effect by deleting Rule 49 (*Declaration of interest at Committee meetings*).

OR, if that proposition is rejected -

1(bb) To amend the Rules of Procedure of the States of Deliberation and their Committees with immediate effect by deleting in Rules 11(7)(a), 17(15) and 49(1) the phrase "or special".

OR, if that proposition is rejected –

1(cc) To amend the Rules of Procedure of the States of Deliberation and their Committees with immediate effect by inserting in the appropriate places in Rules 30(1) and 32 the following definition –

"special interest" means an interest from which the Member or other person concerned could derive benefit;"

OR, if that proposition is rejected –

1(dd) To direct the States' Assembly & Constitution Committee to review the

provisions of the Rules of Procedure of the States of Deliberation and their Committees relating to the matter of a direct or special interest and return to the States with proposals for amending the Rules by incorporation of a suitable definition of the phrase "direct or special Interest" .”

Explanatory note

Rules 11(7), 17(15) and 49(1) of the Rules of Procedure of the States of Deliberation and their Committees ("the Rules") provide for the circumstances in which Members must declare whether they (or certain persons connected to them, such as spouses) have a "direct or special interest" in a particular subject matter or business under consideration. If the obligation arises when a Member is asking or replying to a question (R 11(7)) or before speaking or voting on a proposition (R 17(15)) during the course of proceedings of the States, the obligation is simply to declare the interest. However, if the obligation arises during the course of business being considered by a committee of the States (R 49(1)), a Member must not participate in discussion or voting and must declare the interest and withdraw from the meeting during discussion and voting on the particular matter. In addition the Member is not entitled to receive any committee papers relating to the matter.

The phrase “special interest” is open to different interpretations and in practice the phrase is interpreted as having a wide application. In some instances some Members are effectively excluded from participating in some matters of committee business about or concerning which they have particular knowledge or expertise. This is the case even where their participation could not provide, or reasonably be seen to provide, any benefit to them or any person connected to them. Access to that knowledge and expertise might in some circumstances be of value in the decision making process. Consequently in some instances committees are deprived of often valuable sources of information, experience and expertise without good cause.

Section 17.4 of the States Constitution & Assembly Committee (SACC) policy letter (P.2018/78) states *“The Committee previously consulted with HM Procureur as to whether the existing wording could be clarified or improved and was advised that the wording could be clarified if members wished to change the effect and /or meaning of the rule.”*

The Amendment is therefore intended to provide the States with an opportunity to debate the issue and if thought fit “clarify and improve” the Rules, giving options to approve an amendment to the Rules either by:-

- deleting Rule 49, or

- deleting the words “or special” where they appear, and “direct interest” remaining, or
- inserting a definition of “special interest” as follows :“means an interest from which the member or other person concerned could derive benefit”, or
- instructing SACC to return to the States with a suitable definition of the phrase "direct or special interest" for incorporation into the Rules of Procedure