

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 18th FEBRUARY 2014**

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**The Roll was called and the Dean led the Assembly in Prayer.**

[9:30]

## **COMMUNICATIONS BY THE PRESIDING OFFICER**

### **1.1 Welcome to His Excellency The Lieutenant Governor**

**The Bailiff:**

May I, on Members' behalf, extend a welcome to His Excellency to be here today. **[Approbation]**

### **1.2 "Fly a Flag for Commonwealth Day"**

**The Bailiff:**

A second matter under A, as Members may know there is an initiative been launched throughout the British Isles called "Fly a Flag for Commonwealth Day." The plan is that flags will be flown in all major U.K. (United Kingdom) cities throughout the British Isles, and indeed further afield, and like the other Crown Dependencies, Jersey has agreed to play its part and we will fly the southernmost flag in the British Isles. There is going to be a flag-raising ceremony and that will be held at the Cenotaph on Monday, 10th March at 9.30 a.m. You will all be getting invitations shortly, but I hope Members will feel able to attend. As an extra incentive, there will be refreshments served in the Town Hall after the occasion, so I look forward to seeing Members. There are no other matters under A.

## **APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS**

### **2. Nomination for a member of the Education and Home Affairs Scrutiny Panel**

**The Bailiff:**

I understand there is a nomination for a member of the Education and Home Affairs Scrutiny Panel. Chairman?

#### **2.1 Connétable S.W. Pallett of St. Brelade:**

I would like to nominate the Constable of St. Saviour as a member of the panel.

**The Bailiff:**

Is that seconded? **[Seconded]** Does any other Member wish to make a nomination? Very well, I am delighted to declare then that the Constable of St. Saviour is a member of the panel. **[Approbation]**

## **QUESTIONS**

### **3. Written Questions**

#### **3.1 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY THE AVAILABILITY OF A WEB-BASED INCOME SUPPORT CALCULATOR:**

**Question**

Following his response to question 7837 on 24th September 2013 in which he stated that “Good progress has been made on creating a web-based Income Support calculator.... it is anticipated that the calculator will be available shortly” can the Minister yet state when the calculator will appear?

Will he further state whether he is in a position to release “The Income Support Policy Guidelines document” which he stated “has been comprehensively reviewed over the last few months and will be reissued later this year” and, if not, when will it be available?

### **Answer**

As stated in my response to question 7837, a technical upgrade was in progress on the gov.je website which temporarily slowed development of the calculator. Good progress has been made since then, and we are currently in the final stages of internal testing. Thorough testing is necessary due to the large number of variables that are available to input, and to ensure that the calculator is user-friendly and works on a variety of devices. I am unable to supply a firm date for the launch of the calculator, as it is wholly dependent on the success of the testing process, but I am aware that officers are working hard at present to complete this.

Meanwhile, a detailed estimate of Income Support entitlement continues to be available to customers who telephone, write to or call into the Department in person. In most cases, officers can generate an estimate very quickly when supplied with basic information about a household. The Department’s own calculator is held by the Citizens Advice Bureau and a number of States members.

The Income Support Policy Guidelines document has been available to download from the Income Support section of gov.je since Monday February 3rd. This document provides a general summary of Income Support policy and, in conjunction with the new award letter successfully launched in 2012, helps customers to better understand how their payments are calculated.

### **3.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE INTERIM POPULATION POLICY:**

#### **Question**

Will the Chief Minister explain why, despite his response to an oral question on population policy asked on 4th February 2014, his interim policy fails to address the 2013 housing projections which reveal the need to house an additional 550 households by 2016 over net nil migration with a total of an extra 1,610 units of accommodation needed?

Can the Chief Minister justify such an increase in short term demand for housing when the waiting list for social housing is already 700 plus?

Does the Chief Minister accept that this policy, described as a “policy of stability”, if continued, would create additional demand for housing amounting to some 7,000 units by 2035?

Does the Chief Minister recognize that his policy, if maintained, produces large increases in population for relatively small gains in dependency ratios over the short and medium terms?

Does he accept that replacing 500 “net registered” migrants in 2010 with 400 “net licensed” migrants in 2012 continues to fail to meet his stated targets for 325 total net inward migration?

## **Answer**

The Interim Population Policy covers the years 2014 and 2015, and it will be for the next Assembly to set a future policy for population as part of its long term planning. We cannot set a future policy for population in the absence of a comprehensive planning process, as migration has a wide effect on our Island, for example, on our economy, our infrastructure, our environment.

However, we can anticipate the long term impact of an ageing society, based on the available statistics. Our over-65s population will nearly double by 2035 under any migration scenario, and if we have net nil migration over that period our working age population will decline by 8,000 (11%). This level of decline in our workforce will have a significant effect on our dependency ratio, and hence on our economy.

In the meantime:

- The Island Plan adopts a planning assumption that is consistent with the Interim Population Policy, and so accommodates projected changes in the number of households.
- As new migrants are not eligible for social housing, there will be no short term impact on the social housing waiting list during the life of the Interim Population Policy.

Recent trends show that net inward migration is falling, and is increasingly high value. This is in line with our strategic aim of limited migration and economic growth. Maintaining this trend as the economy recovers, and achieving the +325 outlined in the Interim Population, will be a challenge. However the new Control of Housing and Work Law provides a more efficient mechanism to control inward migration and we are determined to meet the expectations of Islanders.

### **3.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING ANOMALIES IN THE INTERIM POPULATION POLICY:**

#### **Question**

Will the Chief Minister give details of the ‘anomalies’ (referred to by the Assistant Minister in his presentation of the Interim Population policy) in the declarations made by employers under the new Control of Housing and Work manpower returns when compared with the previous system?

Will he expand on the graph on pages 22- 28 of the IPP report to show the changes in licensed staff and total staff employed under licences over the period shown?

How will the general principle of granting permission for licensed and registered staff in support of activities which have high economic value (pages 20 – 26) be used to control migration when the finance sector recovers and seeks to significantly expand using highly skilled and expert migrant staff in the light of the trend revealed by the table “Profile of migration 2010 -2012” (pages 17 - 22) which indicates large numbers of “registered” migrant workers being replaced by “licensed” workers over the period?

Does the Chief Minister accept that by 2016 under his interim “policy of stability” the population of those in private households will have grown by 2,400 to stand at 99,500 and the total population will have exceeded the previous limit of 100,000?

**Answer**

The new manpower returns system requires employers to report the residential status of every employee. During the presentation on the Interim Population Policy, the Assistant Chief Minister referred to the Population Office’s ability to verify this information after it has been reported by employers.

This is one of the ways in which the new Control of Housing and Work Law can support local employment, economic growth, and migration control.

The following table shows J-category employees (now called licenced employees) by year:

	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
J-category employees (now called licenced employees)	1,150	1,120	1,140	1,180
Total non-locally qualified employees (now called registered employees)	6,400	6,120	5,540	4,910
Total J-category and registered employees	7,550	7,240	6,680	6,090

The task of limiting migration as the economy improves will be a challenge across all sectors, as we aim to limit immigration while also securing economic growth.

“Preparing for Our Future” provides a framework to develop long term solutions. In the meantime, the Interim Population Policy proposes to:

- Maintain the planning assumption of +325 migrants per year from 2014-2015
- Support migration that adds the greatest economic and social value, and where local talent is not available. In particular:
  - Support initiatives to encourage employment and improvements in skills for Islanders
  - Increase the employment of “entitled” and “entitled to work” staff

The Interim Population Policy covers the years 2014 and 2015. Our population had reached 99,000 by the end of 2012. It is likely that we are now close to 100,000, and even without inward migration will potentially be slightly above this by the end of the life of the Interim Population Policy. It will be up to the next Council of Ministers to set a longer term policy for population as part of its long term planning.

### **3.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING AN ASSESSMENT OF THE USE OF ZERO-HOURS CONTRACTS:**

#### **Question**

Following his response to question 8097 in which he stated that “*the current database is not able to determine whether the zero hours arrangement .... was to provide cover for temporary, short-term or urgent absence*”, what system, if any, will the Chief Minister put into place in order to assess whether these arrangements constitute genuine use and not abuse of zero hours and, if not, what information is he preparing to contribute to those officers charged with investigating the extent of use of zero-hours contracts in the public sector?

If, in the course of the investigation, it is revealed that there is significant abuse of zero-hours contracts in particular departments, will he commit himself to eliminating such practice?

If the hours contributed by the number of those who were active on zero-hours contracts (1157) in the month ending 31st March 2012 were representative and added to the departmental FTE figures, by how much would FTE figures increase by department?

#### **Answer**

1. The system in place is that departments account for their own management and use of zero hour contracts. The operational data particular to each employee can be used to determine how that contract is being used to fulfil the needs of the service.  
As the Deputy is aware, as part of the ongoing review of terms and conditions of employment, an organisation-wide policy for the use of zero hour contracts is being developed.
2. I am not aware of any evidence of significant abuse of zero hour agreements in public employment. If the Deputy has information that suggests there is such abuse in a particular department, then he should provide the information to my Department.
3. Given the variability attached to zero hours working, it is not possible to determine whether one month's figures attached to those active workers on zero hours agreements is representative of other months. The number of zero hours worked by active workers on zero hours agreements in the month ending 31st March 2012 was equivalent to approximately 275 FTE as set out in the table below:

**Effective FTE increases to departments by inclusion of Zero Hours staff for March 2012**

	FTE as at 31st March 2012	Effective FTE increase (from Zero Hours staff)
Chief Minister's Department	192.45	0.44
Economic Development	56.67	0.00
Education, Sport & Culture	1,553.62	138.69
Health & Social Services	2,321.73	131.74
Home Affairs	642.39	2.44
Housing	40.41	0.00
Department of the Environment	108.86	0.20
Social Security	139.55	0.64
Transport and Technical Services	457.99	0.15
Jersey Car Parks	21.00	0.00
Jersey Fleet Management	26.00	0.00
Treasury and Resources	225.35	0.00
States Assembly	26.52	0.00
Non Ministerial States Funded	178.14	0.39
Non Min SFB-Overseas Aid	1.54	0.00
	<b>5,992.23</b>	<b>274.68</b>

It is important to note that:-

- The FTEs to which Deputy Southern wishes to compare the above figures for March 2012 are not directly comparable:-
  - FTEs previously given for Permanent and Contract staff were calculated at a fixed point in time using HRIS data, whereas zero hour data is calculated from payroll data across the whole month of March 2012 and will fluctuate day to day;
  - HRIS FTE figures reflect those in the Education department who work term-time only and other seasonal employees by prorating their working hours over a whole year, whereas Payroll picks up every hour paid to an employee and zero hours workers during the month, and therefore will be overstated in comparison with the HRIS figures during term-time;
- An 'effective FTE' from zero hours workers cannot generally be directly replaced by a permanent staff member. Many roles, such as Bank Nursing and Highlands College supply, work only to specific service needs at varying times. As such the addition of 275 FTE of staff to the States pay bill would not necessarily result in appropriate cover where and when it is needed. This is one of the main reasons why casual labour usage for one month cannot be translated into a substantive headcount.

**3.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE POTENTIAL FOR THE INTRODUCTION OF A LIVING WAGE IN JERSEY:**

**Question**

Is the Minister in a position to report back to the Assembly, as requested in P.37/2013 ('Living wage for Jersey – investigation'), on the results of his investigation into the potential for the introduction of a living wage in Jersey and, if not, will he state why and inform members when he will be in a position to do so?

**Answer**

The 2014 business plans for both the Chief Minister's Department and the Social Security Department include commitments to work on researching a living wage for Jersey.

As explained in response to P.37/2013 and during the debate itself, scoping a meaningful living wage will require significant input from officers in both Departments. It therefore could not be achieved by the end of January 2014 as proposed in P.37/2013. During the debate it was confirmed that a report by the end of 2014 would be acceptable.

There are a number of different elements to the Living Wage calculation, one of which is income distribution. Work on the 2014/2015 Household Income Distribution Survey will start in Spring 2014 and will be completed by the end of 2015. Alongside that, work will be undertaken to establish other elements of the Living Wage calculation, such as basic cost of living.

An interim report will be brought forward at the end of 2014 pending completion of the Household Distribution Survey.

**3.6 DEPUTY J.A.N. LE FONDRE OF ST. LAWRENCE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ANNUAL REPORT OF THE FISCAL POLICY PANEL:**

**Question**

Further to the remarks made by the Fiscal Policy Panel in recommendation 6 which appears on printed page 7 of their Annual report published on 5th November 2013 (and available on the 2013 Treasury and Resources reports and documents page of [www.gov.je](http://www.gov.je)), would the Minister provide the following:

- a) a financial forecast for the current and next 3 years including updated income projections;
- b) proposed movements and projected year end balances on the Consolidated Fund, Stabilisation Fund and Strategic Reserve for the current year and next 3 years;
- c) data which shows what happened to these funds in the last 3 years; and,
- d) a financial forecast showing the surpluses and deficits adjusted to recognise the economic impacts?

**Answer**

**Part a) a financial forecast for the current and next 3 years including updated income projections;**

The financial forecast represents the MTFP forecasts updated for the 2013 and 2014 Budget and the Update to the MTFP Department Annex for 2014 (R8/2014).

Outturn		MTFP Forecasts (following 2014 Budget)		
		2013 £'000	2014 £'000	2015 £'000
	<b>States Income</b>			
430,460	Income Tax	454,965	474,965	499,475
79,559	Goods and Services Tax	79,761	81,955	84,508
54,236	Impôts Duty	54,534	54,903	55,012
21,172	Stamp Duty	24,529	27,402	28,961
30,926	Other Income	20,545	21,926	24,764
11,380	Island Rate	11,670	12,032	12,453
<b>627,733</b>	<b>States Income</b>	<b>646,004</b>	<b>673,183</b>	<b>705,173</b>
	<b>States Expenditure</b>			
600,644	Departmental Net Revenue Expenditure	626,224	661,966	673,194
	Central Allocations	7,547	7,633	17,963
<b>600,644</b>	<b>Total States Net Revenue Expenditure (excl: Depreciation)</b>	<b>633,771</b>	<b>669,599</b>	<b>691,157</b>
<b>27,089</b>	<b>Forecast Surplus/(Deficit) for the year</b>	<b>12,233</b>	<b>3,584</b>	<b>14,016</b>
15,910	Net Capital Expenditure Allocation	12,566	2,049	11,062
<b>11,179</b>	<b>Forecast Surplus/(Deficit) for the year after Capital</b>	<b>(333)</b>	<b>1,535</b>	<b>2,954</b>

The financial forecast will be revised for the 2015 Budget and will include the Outturn figures for 2013.

**Part b) proposed movements and projected year end balances on the Consolidated Fund, Stabilisation Fund and Strategic Reserve for the current year and next 3 years:**

The Fund Movements and estimated balances represent the forecasts following the 2014 Budget.

Outturn	Consolidated Fund	MTFP Forecasts (following 2014 Budget)		
		2013 £'000	2014 £'000	2015 £'000
47,176 (27,100)	<b>Estimated Opening Balance</b>	31,160	12,099	5,421
	Proposed Capital Expenditure Allocation - Housing Schemes			
	Other Fund Adjustments - Return of Housing Capital		27,000	
	Other Fund Adjustments - Allocation to Capital Programme		(26,472)	(528)
20,000	Repayment of JT Preference Dividends			
	Other Fund Adjustments - Allocation to Capital Programme	(8,500)	(4,743)	(1,757)
	Other Fund Adjustments - Allocation to Innovation Fund	(5,000)		
7,000	Other Fund Adjustment - Earmarked Carry Forward from 2012 to Fund Capital	(7,000)		
	Other Fund Adjustment - Earmarked Carry Forward from 2013 to Fund Capital	3,300	(3,300)	
	Other Fund Adjustment - Jersey Post Special Dividend 2012 to Fund Capital	(1,528)	(698)	
	Other Fund Adjustment - Apply Strategic Reserve contribution to Hospital Replacement Project Phase 1		(10,200)	
	Other Fund Adjustment - Apply Currency Fund contribution to Liquid Waste Strategy Phase 1		(3,000)	
(27,095)	Other Fund Adjustments	-	-	-
11,179	Financial Forecast Surplus/Deficit for the year	(333)	1,535	2,954
	Agreed Transfer from Strategic Reserve	-	10,200	-
	Agreed Transfer from Currency Fund		3,000	
	Proposed Transfer from Strategic Reserve (Note 1)			22,700
	Proposed Funding for Hospital Replacement Project Phase 2 (Note 1)			(22,700)
<b>31,160</b>	<b>Estimated Consolidated Fund Closing Balance</b>	<b>12,099</b>	<b>5,421</b>	<b>6,090</b>
Outturn	Stabilisation Fund	MTFP Forecasts (following 2014 Budget)		
2012 £'000		2013 £'000	2014 £'000	2015 £'000
1,006	<b>Estimated Opening Balance</b>	1,050	1,096	1,142
44	Net Investment Income	46	46	46
	Transfers to/from Consolidated Fund			
<b>1,050</b>	<b>Estimated Stabilisation Fund Closing Balance</b>	<b>1,096</b>	<b>1,142</b>	<b>1,188</b>
Outturn	Strategic Reserve	Forecasts assuming a 5% investment return		
2012 £'000		2013 £'000	2014 £'000	2015 £'000
594,354	<b>Estimated Opening Balance</b>	651,216	738,016	764,416
56,862	Net Investment Income	86,800	36,600	37,700
	Agreed Transfers to/from Consolidated Fund (Budget 2014)	0	(10,200)	
	Proposed Transfers to/from Consolidated Fund (Note 1)			(22,700)
<b>651,216</b>	<b>Estimated Strategic Reserve Fund Closing Balance</b>	<b>738,016</b>	<b>764,416</b>	<b>779,416</b>
Note 1	At the time of the Budget 2014 the proposed drawdown required from the Strategic Reserve for the Hospital Replacement Project Phase 2 was £22.7 million. Further work is being done in preparation for the 2015 Budget and 2015 Capital Programme which will determine whether a transfer is required in 2015.			

The forecast of fund movements and fund balances will be revised for the 2015 Budget and will include the Outturn figures for 2013.

**Part c) data which shows what happened to these funds in the last 3 years;**

The following tables illustrate the movement in balances on the Consolidated Fund, Stabilisation Fund and Strategic Reserve for the last 3 years.

	Summarised from Financial Report and Accounts		
	2010	2011	2012
	£'000	£'000	£'000
<b>Consolidated Fund</b>			
<b>Estimated Opening Balance</b>	51,312	40,625	47,176
Other Fund Movements	(34,911)	(14,611)	(27,195)
Transfer to/from Stabilisation Fund	68,000	46,000	-
Surplus/Deficit for the year from General Revenues	(43,776)	(24,838)	11,179
<b>Estimated Consolidated Fund Closing Balance</b>	<b>40,625</b>	<b>47,176</b>	<b>31,160</b>
	Summarised from Financial Report and Accounts		
	2010	2011	2012
	£'000	£'000	£'000
<b>Stabilisation Fund</b>			
<b>Estimated Opening Balance</b>	113,699	46,997	1,006
Net Investment Income	1,298	9	44
Transfers to/from Consolidated Fund	(68,000)	(46,000)	
<b>Estimated Stabilisation Fund Closing Balance</b>	<b>46,997</b>	<b>1,006</b>	<b>1,050</b>
	Summarised from Financial Report and Accounts		
	2010	2011	2012
	£'000	£'000	£'000
<b>Strategic Reserve</b>			
<b>Estimated Opening Balance</b>	549,915	586,779	594,354
Net Investment Income	36,864	7,575	56,862
Transfers to/from Consolidated Fund			
<b>Estimated Strategic Reserve Closing Balance</b>	<b>586,779</b>	<b>594,354</b>	<b>651,216</b>

**d) a financial forecast showing the surpluses and deficits adjusted to recognise the economic impacts?**

The work to produce a financial forecast with adjustments estimating the economic impacts was initially undertaken as a result of a recommendation from the 2012 Fiscal Policy Panel report. This work was discussed with the Panel in advance of this year's report and updated as a result of the Panel's initial comments.

The work to adjust for the estimated economic impacts has been to:

- Replace the budgeted capital allocations with an estimate from departments of the expected cash flow profile for all capital projects in the future programme.
- Include in the forecast of capital cash flows from departments how the balance of unspent capital at 31<sup>st</sup> December 2012.
- Reflect other timing variances between budgeted allocations and actual expenditure in relation to known carry forwards.
- Include adjustments to reflect planned movements in the Trading Funds of the States Trading operations, principally Jersey Airport and Jersey Harbours.
- Assess the estimated net economic impact of the other funds of the States, which are outside of the Consolidated Fund, but still affecting the economy. These adjustments are for the projected surplus or deficit of the Social Security Fund, Health Insurance Fund, Dwelling Houses Loans Fund etc.

The Treasury will continue to review the economic impact analysis to support the work in development of the LTRP and LTCP and ensure an update is available to the FPP for the next annual report. Consideration will be given to the inclusion of this analysis in the next MTFP 2016-2019.

### Summary Financial Forecast with adjustments estimating the economic impact

	2011	2012	2013	2014	2015
	Actual	Actual	Forecast	Forecast	Forecast
	£m	£m	£m	£m	£m
<b>Current Forecast</b>	-25	11	0	2	3
Add back Budgeted Capital Allocations	13	14	13	2	11
Deduct: Estimated Capital Cash Flow	-64	-34	-84	-110	-138
Other Timing Adjustments	0	0	-8	-6	0
Trading Department Adjustment	3	9	-7	1	1
<b>Estimated Economic Impact</b>	<b>-73</b>	<b>0</b>	<b>-86</b>	<b>-111</b>	<b>-123</b>
Net Surplus from Other States Funds	21	22	14	14	11
<b>Revised Estimate of Economic Impact</b>	<b>-52</b>	<b>22</b>	<b>-72</b>	<b>-97</b>	<b>-112</b>

### 3.7 DEPUTY J.A.N. LE FONDRE OF ST. LAWRENCE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING AN UPDATE OF SUMMARY TABLE A IN THE MEDIUM TERM FINANCIAL PLAN:

#### Question

Would the Minister provide an updated version of Summary Table A as included on page 144 of the Medium Term Financial Plan (2013-2015) (P.69/2012) for the years 2013, 2014, 2015 and 2016?

#### Answer

The following Summary Income Table represents the MTFP forecasts as updated for the changes agreed in the 2013 and 2014 Budgets.

	Outturn	MTFP Forecast (following 2014 Budget)		
	2012 £'000	2013 £'000	2014 £'000	2015 £'000
<b>Income Tax</b>				
Personal Income Tax	351,121	377,000	394,000	414,510
Company Income Tax	79,339	79,965	82,965	86,965
Provision for Bad Debt		(2,000)	(2,000)	(2,000)
	<b>430,460</b>	<b>454,965</b>	<b>474,965</b>	<b>499,475</b>
<b>Goods and Services Tax (GST)</b>	<b>79,559</b>	<b>79,761</b>	<b>81,955</b>	<b>84,508</b>
<b>Impôts Duties</b>				
Impôts Duties Spirits	4,091	4,161	4,747	4,724
Impôts Duties Wine	6,783	7,256	7,626	7,891
Impôts Duties Cider	927	1,040	829	902
Impôts Duties Beer	5,047	5,738	5,575	5,601
Impôts Duties Tobacco	15,825	14,004	14,789	14,236
Impôts Duties Fuel	20,396	21,135	20,263	20,584
Impôts Duties Goods (Customs)	328	150	150	150
Vehicle Emissions Duty (VED)	839	1,050	924	924
	<b>54,236</b>	<b>54,534</b>	<b>54,903</b>	<b>55,012</b>
<b>Stamp Duty</b>				
Stamp Duty	15,404	20,478	23,127	24,598
Probate	4,069	2,500	2,500	2,500
Stamp Duty on Share Transfer (LTT)	1,699	1,551	1,775	1,863
	<b>21,172</b>	<b>24,529</b>	<b>27,402</b>	<b>28,961</b>
<b>Other States Income</b>				
Net Investment Income	4,166	3,721	3,679	4,356
Dividends and Returns	18,442	8,319	11,186	13,287
Jersey Financial Services Commission Fees	3,685	3,700	3,700	3,700
Returns from States Trading Operations	1,671	1,691	1,731	1,771
EUSD Retention Tax	1,464	1,500	-	-
Income Tax Penalties	1,035	1,071	1,071	1,071
Fines and Other Income	463	543	559	579
	<b>30,926</b>	<b>20,545</b>	<b>21,926</b>	<b>24,764</b>
<b>Island Rate Income from Parishes</b>	<b>11,380</b>	<b>11,670</b>	<b>12,032</b>	<b>12,453</b>
<b>Total States Income</b>	<b>627,733</b>	<b>646,006</b>	<b>673,183</b>	<b>705,173</b>

The Summary Income forecasts will be revised for the 2015 Budget and will include the Outturn figures for 2013.

### **3.8 DEPUTY J.A.N. LE FONDRE OF ST. LAWRENCE OF THE MINISTER FOR TREASURY AND RESOURCES FREGARDING AN UPDATE ON THE GENERAL REVENUE INCOME:**

#### **Question**

Given that the graph for General Revenue Income provided on page 1 of the section 'supplementary notes on income forecasts for budget 2014 (September 2013)' (R.8/2014 refers) ("page 1"), appears to indicate a drop in forecast revenue in the order of £30m, would the Minister provide an updated forecast for the years 2013 to 2016 inclusive, utilising the revenue figures used

in the Long Term Revenue Plan as referred to on page 1, using updated expenditure forecasts, and presenting such forecast in the format used in table 4.2 on page 25 of the 2012 budget (P159/2011)?

**Answer**

The ‘Supplementary Note on Income Forecasts for the Budget 2014’ provided States members with an extract from the work, which was carried out for the Long Term Revenue Plan (LTRP). This LTRP extract covered the period 2013 to 2015 and provided a summary of the initial review of the forecasts for General Revenue Income only. This did not include information on expenditure forecasts.

The figures for States Income forecasts, which formed the basis for the graph on page 1 of the supplementary note, have been updated and all include the impact of the agreed 2014 Budget measures and are as follows:

States General Revenue Income		Forecasts		
		2013 £'000	2014 £'000	2015 £'000
<b>States Income</b>				
Income Tax	MTFP adjusted	454,965	474,965	499,475
	LTRP assumptions	446,000	462,000	473,510
Goods and Services Tax	MTFP adjusted	79,761	81,955	84,508
	LTRP assumptions	78,381	80,132	81,939
Impôts Duty	MTFP adjusted	54,534	54,903	55,012
	LTRP assumptions	55,891	56,774	57,102
Stamp Duty	MTFP adjusted	24,529	27,402	28,961
	LTRP assumptions	18,549	19,238	21,654
Other Income	MTFP adjusted	20,545	21,926	24,764
	LTRP assumptions	23,122	19,092	24,584
Island Rate	MTFP adjusted	11,670	12,032	12,453
	LTRP assumptions	11,665	11,956	12,255
<b>States Income Forecast</b>		<b>646,004</b>	<b>673,183</b>	<b>705,173</b>
<b>States Income LTRP Forecast</b>		<b>633,608</b>	<b>649,192</b>	<b>671,044</b>

*Note: the ‘MTFP adjusted’ forecast represents the MTFP original forecasts adjusted for the measures agreed in the 2013 and 2014 Budget, as used in the Answers for Written Questions Q8128 and Q8129 for this States sitting.*

It is important to note that the LTRP is a much longer term planning tool, looking beyond the next MTFP. As with all longer term planning, the longer the timescale, the greater the uncertainty and hence the more prudent the assumptions used.

The central MTFP forecasts, updated for the agreed 2013 and 2014 Budget measures (including the 1% reduction in marginal income tax rate), remain the central forecast.

**3.9 DEPUTY M. TADIER OF ST. BRELADE OF THE CHAIRMAN OF THE EDUCATION AND HOME AFFAIRS SCRUTINY PANEL REGARDING THE PANEL’S ANTICIPATED WORK PROGRAMME:**

**Question**

Will the Chairman provide a summary of the anticipated work programme for the remainder of the term, including any current and new reviews and state what policy areas will be a priority for the panel in both departments?

**Answer**

On 21st January 2014, I was privileged to be appointed as Chairman of the Education and Home Affairs Scrutiny Panel. On 4th February 2014, the Connétable of St Martin was approved by the States to sit on the Panel. We have met twice since then. The First meeting was to deal with the constitution of the Panel, meeting dates and to decide how to move forward. The second was on Thursday 13th February, to receive a briefing on the work programme of the Home Affairs Minister.

The Panel has now arranged a similar briefing from the Minister of Education, Sport and Culture to be held on 24th February.

Careful consideration needs to be given to what is achievable over the remaining time available in this session. Therefore, prior to the next Panel meeting, on 24th February, when our work programme will be decided, it would be premature for me to provide the States with an anticipated work programme for the Scrutiny Panel for the remainder of the term.

**3.10 DEPUTY M. TADIER OF ST. BRELADE OF THE CHAIRMAN OF THE EDUCATION AND HOME AFFAIRS SCRUTINY PANEL REGARDING THE CURRENT DRUGS POLICY OF THE HOME AFFAIRS DEPARTMENT:**

**Question**

In the light of Report SR8/2013 regarding “Customs and Immigration Service: resources for prevention of importation of illegal drugs” presented in May last year, will the Chairman state whether he is now satisfied that the current drugs policy of the Home Affairs department is fit for purpose and advise what areas of concern he still has, if any?

**Answer**

I have reviewed the scrutiny report SR8/2013 ‘Customs and Immigration Service: Resources for Prevention of Importation of Illegal Drugs’ which was published and presented to the States on 10th May 2013 by the Education and Home Affairs Scrutiny Panel, chaired at that time by Deputy J Macon. I was a member of the Panel during the full evidence gathering process. I have also discussed the issues raised in that report with the Minister for Home Affairs.

At the time of publication of the report, the Panel had not found any significant cause for concern that the Jersey Customs and Immigration Service was failing in its responsibility to maintain disruption levels nor that staff shortages were leading to increased availability of illegal drugs in the Island. The evidence given by the various agencies consulted by the Panel did not provide any direct challenge to the policy of containment and disruption as set out by the Minister for Home Affairs in the Scrutiny hearing on 22nd June 2012. Rather than any significant increase in the availability of illegal drugs, there appeared at that time to have been a reduction in the use of Class A drugs. A trend that I am informed by the Minister is continuing at this point in time. I am,

therefore satisfied that that the current drugs policy of the Home Affairs department is fit for purpose.

That being said, subsequent to the Scrutiny report, the Minister has made provision for two part time posts to be added during the summer months of 2014 to boost the resources available at the points of entry to the Island.

### **3.11 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE CONTAMINATION OF GROUNDWATER BY THE PROCESS KNOWN AS ‘FRACKING’:**

#### **Question**

Does the Minister accept that in the USA, fracturing of underground rock by the process known as ‘fracking’ has caused contamination of groundwater with both the gas and chemicals used in the process?

Given that Jersey’s geology is such that substantial amounts of groundwater flow through faults and crevices in the rock below, will the Minister guarantee to commission a comprehensive study of the possible risks associated with fracking locally, before any consideration of using the process is entered into?

#### **Answer**

As with any complex industrial process, hydraulic fracturing (commonly referred to as ‘fracking’) has occasionally resulted in accidents, particularly in the early development period. The Minister is aware that some groundwater contamination connected with the hydraulic fracturing process has occurred in the USA but precise details, particularly regarding the scale and distribution of such contamination incidents is difficult to gauge, given the amount of conflicting and often inaccurate information generally available on the internet and in the media generally.

Since its inception in the late 1940s, millions of fracking events have been carried out around the world, (including in oil and gas wells in the North Sea), without incident. Hydraulic fracturing can undoubtedly be carried out safely if the correct regulatory regime, environmental protection and proper monitoring regimes are put in place before the process is permitted to be used.

The geology beneath Jersey is not conducive to the formation of hydrocarbon gases that are commonly obtained by the process of fracking.

A prime requirement for the formation of hydrocarbon gases at depth in the sub-surface is the presence of organic rich rocks. Whilst shales do underlie parts of the Island, there is no evidence to suggest that any of the shales contained any organic material, let alone was ever rich in organic material. The shales beneath Jersey were laid down in excess of 600 million years ago during the Pre-Cambrian, a period that pre-dates the first detectable life forms on the planet. Elsewhere, shale gas is found in much younger rocks, for example Devonian and Carboniferous strata, in which organically rich rocks do occur. None of these younger rocks are present beneath Jersey or beneath the sea bed in the vicinity of the Island. In addition hydrocarbon gases do not form in igneous rocks, such as the granites and volcanic rocks that underlie much of Jersey. In the absence of organic material in the shales, it is highly unlikely that any shale gas is present beneath the Island.

In the highly unlikely event that a potential hydrocarbon gas resource were to be identified beneath the Island, the Department of the Environment would seek advice and assistance from relevant authorities and institutions outside the island, (for example the UK Environment Agency, the Health and Safety Executive, and the British geological Survey), that have extensive experience in the regulation and monitoring of hydraulic fracturing operations. By this means, all potential risks, including potential impacts on groundwater resources, could be fully understood. This would enable the development of appropriate mitigation and regulation policy before there is any consideration of permitting hydraulic fracturing operations to occur beneath the Island.

It is worth noting that I shall shortly be bringing before the Assembly the Energy Plan: Pathway 2050. This document outlines a low carbon future for Jersey that seeks to reduce the Island's carbon emissions by up to 80% by 2050 based on a 1990 baseline. Within that framework I do not anticipate the use of (hydro-carbon rich) gas generated from fracking either on Jersey or in its territorial waters.

### **3.12 DEPUTY R.G. LE HÉRISSEUR OF ST. SAVIOUR OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING C.I.C.R.A. AND JERSEY TELECOMS:**

#### **Question**

Would the Minister confirm whether the CICRA supports a "level playing field" for companies who wish to connect to the JT as wholesale customers for the purpose of retailing office telephone systems?

How is the CICRA promoting a "level playing field" and when will it be in place?

#### **Answer**

The Channel Islands Competition and Regulatory Authorities (CICRA) comprise the Jersey Competition Regulatory Authority and the Guernsey Competition and Regulatory Authority (formerly known as the Office of Utility Regulation).

CICRA does not regulate the sale of office telephone systems under the Telecommunications (Jersey) Law 2002, since parties do not require a telecoms licence to sell or install office telephone systems. Regarding whether a 'level playing field' exists for companies who retail office telephone systems, CICRA has advised EDD that there is a range of suppliers, both on-island and off-island, from which businesses in Jersey can purchase telephone systems.

The Competition (Jersey) Law 2005 prohibits anti-competitive behaviour, including anti-competitive agreements between businesses and the abuse of a dominant position in a market.

I am aware that a competition concern was previously raised regarding telephone systems. In response to a complaint from Nitel, CICRA conducted an investigation in late 2012/early 2013 under Article 26 of the Competition (Jersey) Law 2005 as to whether JT was engaging in predatory pricing of telephone systems, and therefore abusing a dominant position contrary to Art 16 of the Competition Law; that is, whether JT was selling telephone systems at a price that is so low that the intent of its pricing was to drive competitors out of the market. CICRA has informed my

department that, at that time, it reviewed a number of telephone system contracts between JT and customers, but could find no evidence that those systems (and the support services provided alongside them) were being sold at a price that was below average variable cost. The file was therefore closed.

If a business had a competition concern in this area it should raise it with the regulator. CICRA would then assess the complaint to see if there are grounds to commence an investigation under the competition laws.

More broadly, regarding wholesale access EDD is strongly supportive of a robust and competitive telecoms sector and believes that the introduction of WLR would give islanders the same range of choice that has been available to consumers in other jurisdictions for a long time.

CICRA has an ongoing commitment to requiring JT in Jersey and Sure in Guernsey, as the incumbent telecoms operators, to provide other operators with access to their fixed-line networks. CICRA issued a final decision last May obliging JT (and Sure) to introduce Wholesale Line Rental, but that decision was overturned by the Royal Court on procedural grounds and remitted to CICRA on 29 November last year. Following the court's decision, I have been informed by CICRA that it expects, before the end of next month, to re-consult on requiring JT (and Sure) to provide wholesale access to their fixed-line networks. This would enable competing operators to supply a broader range of fixed-line telecoms services, and would provide Jersey customers with choice.

### **3.13 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING COMPANIES CONNECTING TO THE J.T. NETWORK:**

#### **Question**

Is the Minister as the sole shareholder in JT and the representative of the public interest, satisfied that there exists a "level playing field" for companies connecting to the JT network as wholesale customers to promote the sale of office telephone systems? If not, why not?

#### **Answer**

The sale of office (and home) phone systems is an open and competitive market that is served by providers that do not have a presence in the Island as well as a number of local providers that do, JT, Nitel and JET, amongst others.

These providers almost always connect to a licensed network, JT being the principal one in Jersey, although there are others. Local companies such as Nitel compete on a level playing field with other providers.

The Minister is advised that complaints of this nature were made to CICRA in 2012 and a full investigation took place into an allegation that JT was abusing a dominant position in the supply, installation and servicing of office telephone systems. The conclusion of the investigation was that there was no case to answer, with the CICRA file having been subsequently closed in early 2013. Nevertheless the Minister is always mindful of the need to maintain cost effective telephone and data networks for both local people and businesses, and if change is necessary it will be considered.

### **3.14 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING ENFORCEMENT MATTERS:**

#### **Question**

Will the Minister explain why in his reply to my written question on 21st January 2014 about Planning enforcement matters in particular *“those matters which were subject of recent decisions of the Royal Court to allow appeals against enforcement action previously taken by his Department”* he replied *“Taking recently to mean the last 12 months , the Royal Court has not allowed any appeals made against the serving of enforcement notices”*.

Whereas on 29th October 2013 , after investigation by the *Amicus Curiae* appointed by the Court into an enforcement matter and consequent convictions for enforcement offences, the Royal Court was advised *“that there were grounds for concern over the validity of an enforcement notice which had been served...there were technical procedural irregularities and ...the Crown no longer views it as being in the public interest to continue with these charges”* and therefore did not oppose the appeal against prosecution, resulting in the Royal Court quashing the convictions, awarding the appellant costs.

Will he now reconsider his reply, explain why this was not disclosed in his reply to my original question and provide the Assembly with a complete and wholly accurate reply?

#### **Answer**

The answer to how this question was answered originally has already been explained to Deputy Young via email correspondence.

The Deputy refers to an individual case which was considered by the Royal Court last year. This was not an appeal against an enforcement notice of the department, but was a hearing to request an appeal against a Court conviction. This was required because the person involved, was out of time for the normal appeal against the Court’s original decision to convict.

In assessing whether to allow the individual the right of appeal, the Court considered the grounds put forward by the prospective appellant. In assessing these grounds, the Court decided to allow the opportunity to appeal. It also went on to allow the appeal against conviction. In doing so the original enforcement notice was withdrawn as it considered the wording unclear. Due to this technicality the Crown did not consider it in the public interest to continue with the charges.

The answer given originally to the question on the 21st January 2014 was correct in so far as I am able to answer in relation to appeals against my department. The case the Deputy refers to was an appeal against a Court decision. However, by nature of the final decision it had an impact on earlier work of my department.

This case was not however a formal appeal against a refusal of planning permission or an appeal against an enforcement notice. Both of which options the person in this case declined to exercise.

I do understand that the Deputy considers my earlier answer did not fully answer the question. I would suggest that the answer was technically correct in relation to appeals against my departments work. I had taken advice on its content before submission.

I would also suggest that if the question had been written differently and been more specific, it could have offered me the opportunity to refer to this case. Alternatively it could be argued that as the case referred to was to seek leave to appeal against a conviction, it may have been more appropriately put to the Crown Officers.

I consider that I can only answer a question with reference to the work of my own department. I would suggest that I could not automatically infer from the question that the Deputy was referring to work outside of my department, although it did have an impact on a previous case. The Case referred to was known to the Deputy and has already been publicly reported on. The information pertaining to it has already therefore been publicly disclosed.

### **3.15 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE ARREST AND REMOVAL OF A LADY KNOWN AS H.G.:**

#### **Question**

Will the Chief Minister explain, with reference to previous questions on matters on the arrest and removal from the Island of the lady known as HG:

1. What steps, if any, the Safeguarding Officer has taken to discuss her report with HG?
2. When the report will be completed?
3. When will the report be released into the public domain, and if the report is not to be released, why not?

#### **Answer**

The Chair of the Independent Safeguarding Board is trying to contact the person known as HG in order to seek her views on the services she received in Jersey and to share the draft report with her. The Independent Chair is working to establish contact.

Much work has already been done to compile the report but it cannot be completed until the Independent Chair has had contact with HG.

It is anticipated that the report will be published once it has been completed.

### **3.16 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE CLARIFICATION OF THE LAW OF DEFAMATION:**

## Question

Will the Attorney General -

- (a) confirm whether the law differentiates between a person who libels another and a person who repeats the libel by publishing it in a written form;
- (b) outline whether there are any exemptions to the law of defamation for government departments and public bodies?

## Answer

- (a) Libel is the written form of defamation (as opposed to slander which is the spoken form). Each publication of a statement which repeats an earlier libellous statement is itself a libel;
- (b) the Attorney General is not aware of any general exemptions for government departments or public bodies from the law of defamation. However there are statutory provisions that give specific exemptions to some public bodies in some circumstances (see, for examples, Article 43 (1)(a) of the Public Records (Jersey) Law 2002 and Article 121 of the Broadcasting (Jersey) Order 2003) and some public bodies enjoy absolute privilege (for example, a statement made in a court). In addition, defences such as “qualified privilege” may be open to public authorities against any claim in defamation.

### **3.17 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE RULES OF COURT IN RESPECT OF THE TREATMENT OF WITNESSES:**

#### Question

Will H.M. Attorney General state:

1. Whether the Rules of Court for the Royal Court, Magistrates Court, Petty Debts Court, Industrial and other Tribunals allow witnesses or people likely to be called as witnesses to:
  - (a) be present in court/hearing and hear the oral evidence of other witnesses to the case in question before giving their own evidence;
  - (b) have sight of, or knowledge of, the witness statements made by other witnesses before giving evidence;
  - (c) hear the legal arguments between the parties/ prosecution and defence and judge/chairman before giving evidence;
  - (d) discuss with other witnesses their evidence before giving it in the court/hearing/tribunal, or have knowledge of the evidence given by other witnesses.

2. Whether any of 1 (a), (b) (c), (d) would be prejudicial to a fair hearing of the case in question; and
3. Whether any of 1 (a), (b) (c), or (d) would be compatible with Article 6 of the European Convention on Human Rights i.e. the Right to a Fair Hearing?

**Answer**

As far as the Attorney General is aware there are no specific Rules of Court that deal with the matters set out in the question.

It is the obligation of any of Courts and Tribunals determining a criminal case or a civil right or obligation to ensure a fair hearing and to ensure, where applicable, the specific provisions set out in Article 6 of the European Convention of Human Rights (“ECHR”) are adhered to. A court will apply the appropriate rules of evidence in doing so.

The proper handling of witnesses will depend on the nature of the case, the allegations, and the evidence that the witness might give.

Different considerations may apply to different types of witnesses. For example, it is quite normal for someone who is to give expert evidence to remain in a court and hear all of the other witnesses, particularly if that may help the expert give more assistance to the court in the light of what those witnesses might say.

Accused persons in criminal proceedings or parties in civil proceedings will, as a general rule, be entitled to see all of the evidence in advance and hear all evidence against them and any legal arguments before giving evidence themselves.

Witnesses giving purely formal or uncontentious evidence may by agreement be allowed to remain during other evidence.

As a general rule, however, lay witnesses and witnesses of disputed fact are excluded from a hearing until they have given their own evidence. Generally witnesses should not discuss the evidence that they might give with another witness and if they have done so the credibility of their evidence may be undermined.

It is open to a defendant in a criminal case to cross-examine a witness as to credibility and in a criminal matter, for example, a judge may warn a jury to be cautious of evidence given by a witness who has discussed it with another witness and in some cases may direct a jury to disregard it.

There is nothing wrong in principle with a witness, prior to giving evidence, refreshing his or her memory from his or her own witness statement.

Once a witness starts to give evidence and the matter is adjourned before that evidence is concluded they are directed by a judge that they should not discuss their evidence with any person during the adjournment.

Accordingly, in response to the numbered paragraphs in the question:

- (1) There are no Rules of Court as such that touch expressly on the matters set out in subparagraphs (a) to (d);
- (2) It is impossible to answer this question. Any of the matters set out in 1(a) to 1(d) might be prejudicial to a fair hearing (and that possibility is greater if not corrected during the hearing itself) but it is equally possible that there may be no prejudice. It will depend on the circumstances of the case and the nature of the evidence; and,
- (3) None of the express provisions of Article 6 ECHR touch on the matters raised in part 1(a) to (d) of the question. Accordingly this part of the question falls to be answered in the same way as the preceding part.

**3.18 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING AN INCIDENT IN SIR WINSTON CHURCHILL PARK IN MAY 2011:**

**Question**

Will the Minister advise members –

- (a) what prosecutions, if any, took place following an incident involving young people in Sir Winston Churchill Park, St. Brelade on 13th May 2011;
- (b) whether complaints were made against two Police Officers in connection with this incident; and,
- (c) what the result of any investigation was into the complaints outlined in (b), including the nature of the investigation and whether any disciplinary hearings or charges were brought against the officers concerned?

**Answer**

- (a) One young person received a written caution at a Parish Hall Enquiry.
- (b) No formal complaints were made against any police officer. I am advised that the States Police are not currently aware of any complaints having been made.
- (c) Not applicable as no complaints made.

**3.19 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING CERTIFICATES FOR SERVICE FOR STATES OF JERSEY POLICE OFFICERS:**

**Question**

Will the Minister confirm that an Officer of 31 years' service would normally be entitled to a Certificate of Service signed by the Chief Officer of Police? Will he explain the reasons why such an officer would not receive such a certificate for his service?

**Answer**

Article 9(3) of the Police Force (General Provisions) (Jersey) Order 1974 provides that on leaving the Force, an officer shall be given a certificate showing details of his / her service.

In 2007, for reasons which are not completely clear, but which may relate to changes of staff, the States of Jersey Police stopped arranging for the issuing of such certificates and instead provided officers who were leaving the Force with a letter which contained similar details. The issue was raised recently by the officer referred to in the question and as a result I met with the Deputy Chief Officer and with a member of the Home Affairs HR staff in order to resolve this.

An appropriate certificate had now been issued to this officer and to one other officer and the correct practice of issuing certificates has been restored.

The said Article 9(3) does not stipulate who signs the certificate and in my view the signatures could properly include one or more of the Minister for Home Affairs, the Assistant Minister for Home Affairs, the Chairman of the Police Authority, the Chief Officer of Police or the Deputy Chief Officer of Police.

I am in the process of reviewing the Police Force (General Provisions) (Jersey) Order 1974 and intend to replace this with a new Order later this year.

I believe that the tradition of a leaving certificate is a good tradition, which appropriately marks appreciation for a period of service in the States of Jersey Police and it is my intention to maintain this tradition but with less information than is currently required by the existing Order.

**4. Oral Questions**

**4.1 Deputy J.H. Young of St. Brelade of the Minister for Economic Development regarding the use of public resources to prosecute local fishermen under the Shipping (Fishing Vessels – Safety Training) (Jersey) Order 2004:**

Will the Minister inform the Assembly whether he authorised the use of public resources to prosecute local fishermen for time-expired certificates of training under the Shipping (Fishing Vessels - Safety Training) (Jersey) Order 2004? If so, would he explain why this was considered preferable to the direct provision of training by the Harbourmaster and how he considers imposing fines on fishermen assists the industry in difficult economic times?

**Senator A.J.H. Maclean (The Minister for Economic Development):**

I have not authorised the prosecution of anyone. It is the Law Officers' Department who have the function of taking prosecution decisions. The Harbourmaster has a duty to refer relevant cases where the law has been broken to the Law Officers' Department for a prosecution decision to be made. Decisions taken by the Law Officers will have regard to the public interest considerations. The fishermen have been convicted and fined in the Magistrates Court. They are in the process of appealing their fine only and therefore I cannot talk further about the individual case. The

Harbourmaster has no duty to provide training but nonetheless has gone well beyond his call of duty by assisting in the scheduling of 2 additional courses during last year and is currently in the final stages of negotiating with training providers for the future provision of courses. The prosecution of anyone is a last resort and in no one's interest, which is why strenuous efforts were made to avoid this situation, but no individual or industry should be above the law.

#### **4.1.1 Deputy J.H. Young:**

The Minister stressed that it was not his decision, it was the Attorney General's decision, but I wonder if the Minister could tell us whether he is familiar with the guidelines issued by the Attorney General on the circumstances when it is not appropriate to refer a breach to the Attorney General, for example minor matters, genuine mistakes, misunderstandings, relying on information volunteered in the course of an inquiry, *et cetera*? Is he aware of that, has he considered it and, if he has not, will he do so?

[9:45]

#### **Senator A.J.H. Maclean:**

Officers within departments certainly consider those matters, which are of course very relevant. We do not want to be bothering the good officers of the Law Officers' Department for minor misdemeanours. This unfortunately is a situation that had dragged on for some considerable time, repeated warnings had been made and, sadly and unfortunately, those involved did not act upon those encouragements from the department to rectify the situation. The law was unfortunately, therefore, broken and in a knowing way.

#### **4.1.2 Deputy S.G. Luce of St. Martin:**

In the media reports in this case, the case immediately following was another fisherman who was charged with going to sea without a valid certification. The fisherman pleaded not guilty and the prosecution offered no evidence. Does the Minister think this is a good use of court time?

#### **Senator A.J.H. Maclean:**

The Deputy perhaps should not rely upon media reports for accuracy. That would be the first point I would make. I would also seek from him clarification as to whether he is referring to a related party in this particular transaction or incident or whether he is talking about a totally separate case.

#### **The Deputy of St. Martin:**

The case I refer to was the father of the person who was charged initially. The case went to court and no prosecution evidence was given.

#### **Senator A.J.H. Maclean:**

There was, as I understand it, another individual on the boat who was appropriately certificated and therefore this particular incident was not one that we progressed because there was no infraction of the law as such.

#### **4.1.3 Deputy M.R. Higgins of St. Helier:**

Perhaps the Minister can tell us how many cases put forward by his officers to the Law Officers have ever been rejected? I witnessed a case in the Magistrates Court yesterday and it does appear to be that the Law Officers' Department appear to rubberstamp or basically do what the departments are telling their people to do. Is that the case in your department?

#### **Senator A.J.H. Maclean:**

I would turn that question on its head. This legislation came about first of all in 1999 as a result of the sad loss of life, where it was made clear that Jersey was deficient in terms of protecting its seafarers by having appropriate legislation and training programmes in place to ensure that we mitigate such risks. Since the law was introduced there have, as far as I am aware, not been prosecutions although there are 2 current potential cases that are being considered.

**Deputy M.R. Higgins:**

With respect, the Minister answered a totally different question. He did not answer my question about has he had any cases overturned at all that he has referred to the Law Officers Department and, secondly, is it a case of his department gives a recommendation and it is rubberstamped?

**Senator A.J.H. Maclean:**

I do not think it is a case of being rubberstamped at all. As far as this legislation is concerned, I am not aware of any cases being brought, apart from the one we are referring to now. I think I answered the question by simply saying there are 2 others in train that potentially could lead to prosecution. Whether indeed those are accepted by the Law Officers' Department, it is too early, clearly, to tell at this stage.

**4.1.4 Connétable P.J. Rondel of St. John:**

Given many fishermen have only worked for 3 days out of the last 60, would the Minister say what good putting people to court is and getting fined £3,000-odd for not having a certificate when the Minister himself has just admitted that there was a certified person on that vessel with the necessary qualifications? Therefore, the other party whose certificate had lapsed ... will he tell us what he has put in place, through the Harbour Office, to assist these people in getting that certificate? Historically, the Harbour Office used to arrange special courses for the industry. Has that fallen away?

**Senator A.J.H. Maclean:**

The Harbour Office organises, through independent training providers, for courses to be laid on. There are a whole raft of courses that are laid on through the year. The majority of fishermen seemed to be able to attend these courses. The legislation was crafted to be a light touch. For example, with regard to the firefighting course, in particular in the U.K. - and this question may be asked - it is a lifetime certification but that is because it is a significantly more complicated course to go through. Ours is in the evening for a couple of hours. We have tried to make it light touch, we have tried to make it easy, and it is supported, I might add, by the Jersey Fishermen's Association and other fishing body associations.

**4.1.5 The Connétable of St. John:**

The Minister talks about a light touch but, given the fine is something up to £5,000, does he consider a £3,500 fine a light touch, in particular when nobody has been working in the industry for roughly 2 months, apart from 3 days?

**Senator A.J.H. Maclean:**

Within the legislation, the maximum fine, I understand, was up to £7,000. The magistrate clearly took the decision, based on the details of the case presented before her, that £3,500 was appropriate. I have already mentioned this is a matter of appeal and I cannot talk any further about it. The Connétable raises a very valid point about industries suffering in the current economic climate but in particular, as far as the fishing industry is concerned, with regard to the weather conditions. They have not been able to go to sea, we appreciate that, but it is a totally separate issue to what we

are discussing in terms of this question. Do we support the fishing industry? Yes, we do, to the tune of tens of thousands of pounds. I have had conversations with the president of the Fishing Association who is satisfied.

#### **4.1.6 Deputy J.H. Young:**

Is it not the case that we have now a new regime under the Ports of Jersey where technical transgressions of a time expiry of a certificate are seen to be a rationale for prosecuting? Would the Minister not accept that the department are relying on courses provided by other people, that the earliest dates that courses are currently available are in the April, May and September coming, and what situation does that leave the fishermen in now whose certificates may have expired? He has mentioned 2 others in the pipeline. Surely we should be devoting the resources... will he not accept we should be devoting resources to helping these people meet the requirements that we are having to approve in the States?

#### **Senator A.J.H. Maclean:**

The Deputy has raised the point about the range of courses throughout the year, and that is just one particular firefighting course that he is referring to. There are first aid courses that are even more frequent. The department will respond where necessary if courses are required, working with third-party providers, quite correctly, to ensure that courses are available. In this particular instance, there was warning after warning; the individuals knew that the requirement to certificate was there; they knew that courses were on. Indeed, on top of all that there was a 3-month exemption for the whole fishing industry in order to provide a course and allow them to get certificated within that additional period. There has been plenty of effort to assist the industry, and there will be more, of course, if necessary.

## **4.2 Deputy M. Tadier of St. Brelade of the Minister for Health and Social Services regarding respite services for families and young adults with complex needs:**

Can the Minister advise whether a need for additional funding has been identified for respite services for families and young adults with complex needs and advise what contingency plans, if any, have been made for when the present contract with Highlands Luxury Care Home terminates on 31st May this year?

#### **Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):**

I met with the service users and their families at the end of last year to discuss their views on respite services going forward. I take their views very seriously and intend to involve them fully in any decisions that are made in the future. Highlands Luxury Care Home is just one of the providers who support adults with complex needs and their families. Our partnership with Autism Jersey and Les Amis, to name but 2, provides a vital role in providing support. An additional £120,000 has been identified from the White Paper for short-break respite for children and their families and this is not a one-size-fits-all service. Packages need to be designed around the specific needs of the individual. Last year we tendered for short-break providers so that we have more choice and we also help families design bespoke care packages for children and adolescents with complex needs. Like the children's respite service, the adult service will be open to tender and the aim is that there will be no break in service when the existing contract ends. The intention is to have a range of service providers to offer choice to service users and the families will be an active part of the selection process.

#### **4.2.1 Deputy M. Tadier:**

I hope that selection process and tender process will allow for stability and security for parents and users. Will the Minister accept that there is currently an insufficient capacity at Highlands Care Home and that the 4 beds, 2 of which were supposed to be nursing and 2 non-nursing, have effectively reduced to 3 because one is being used for a permanent client and therefore even more pressure is being put on those parents and clients who would wish to use that very valuable respite? If she does, what action will she take?

**The Deputy of Trinity:**

We always want to make sure that we have bespoke services around each individual and that is why this tender process is important. I am very pleased that the service users and their families are involved right from the very beginning. I understand that they have a draft S.L.A. (service level agreement) with them now and one of the commissioners is going to meet with them tomorrow to go through their thoughts and experiences of the S.L.A. to make sure that we have it right going forward.

**4.2.2 Deputy J.A. Hilton of St. Helier:**

Can the Minister inform Members when the department intends to reinstate long-weekend and short-break respite for young adults with complex needs? Also, can she give Members an assurance that those 12 young people who will be in transition from children to adults in the next 3 years will be well catered for with regard to respite?

**The Deputy of Trinity:**

Yes, I would like to reassure the Deputy. That is why it is very important that service users are included right at the very beginning of putting together what the needs are, as well as the service level agreement, and also being part of a tender panel. I know that the Special Needs Advisory Panel is a representative of the voice of the people with learning difficulties and they meet very regularly with the service users.

**4.2.3 Deputy J.A. Hilton:**

Could the Minister just confirm when the short breaks will be reinstated for users?

**The Deputy of Trinity:**

At this moment in time I cannot give her that information but I will come back to her.

**4.2.4 Deputy J.G. Reed of St. Ouen:**

Could the Minister confirm whether all young people with complex needs are provided with bespoke care packages and, if so, whether that is extended to those that suffer with mental health issues?

**The Deputy of Trinity:**

It is all based on individual needs and working with their parents and with the service users too. That is the most important way as we go forward. A lot of investment has been placed and it is important that we get it right for each individual.

**The Deputy of St. Ouen:**

The question that I asked the Minister was specific in that I asked her whether she could confirm whether all young people with complex needs are provided with bespoke care packages. It is basically a yes or no answer.

**The Deputy of Trinity:**

If that is what the way forward is for them. As I said, each individual is managed through a proper adult social worker team and a respite care co-ordinator to make sure that it is the right thing for them, be it respite care or be it outreach in their own homes.

**The Deputy of St. Ouen:**

Please would the Minister respond with the answer yes or no?

**The Deputy of Trinity:**

It is not as simple as that because with service users and families everyone is an individual, so from that point I suppose, yes, but not everyone has the same.

**The Deputy of St. Ouen:**

So would the Minister confirm the answer is no?

**The Bailiff:**

I think the Minister has addressed it.

**4.2.5 Deputy M.R. Higgins:**

Will the Minister acknowledge that some of the cases she is aware of at the present time and have been outlined are just the tip of the iceberg and that many families are suffering behind the scenes and quietly? Will she say whether she thinks £120,000 of extra money is going to be sufficient to meet the pent-up demand that there is for this vital service?

**The Deputy of Trinity:**

The £120,000 is extra to the children's respite service, so it brings us to £600,000, plus the care in Oakwell, Eden House and the Haven. There is an extra £500,000 for adult respite care and just over another £500,000 for older respite care, plus day centres and community care.

**4.2.6 Deputy M.R. Higgins:**

Can the Minister say whether she does believe that what we are seeing at the moment is only the tip of the iceberg and what steps she is taking to communicate and contact the families who are in need of this care?

[10:00]

**The Deputy of Trinity:**

Will there be enough? I would have thought perhaps not going into the future and that is why we must always continue to look forward. Another way we are looking forward is working with Housing for another residential unit that will be up and running next year. I have forgotten the first part of the question. I am sorry. Yes, working with others. A lot of work has been done under the chairmanship of Senator Routier. As I said, there is a Special Needs Advisory Panel that is a representative voice of the people with learning difficulties and their families. Also there is a service users' forum as well.

**4.2.7 Deputy M. Tadier:**

We seem to be in the same situation as 3 years ago where Oakwell was the case in point and now exactly the same thing seems to be happening at Highlands Care Home. Can I ask the Minister will she meet with the Minister for Treasury and Resources and other Ministers to identify, first of all, what the funding gap is and identify significant funds, not simply the £120,000 that keeps us trading water but to identify meaningful funds so that significant provision and improvement can

be made in the area of respite care for these parents who seem to be going through the same problems year in, year out without any effective government response to resolve the underlying issue of bed space and respite provision?

**The Deputy of Trinity:**

I am happy to meet with any Minister, including the Minister for Treasury and Resources. A lot of work is going to still continue to be done in partnership with these families. I met them only before Christmas to look forward to how we can help these young families as they get older. As I said, there is a service users group as well as the Special Needs Advisory Panel. Senator Routier has set up a disability panel. Their voice is being heard.

**4.3 The Connétable of St. John of the Minister for Economic Development regarding the current pay and conditions of Condor Ferries' crew and the recent industrial action taken by staff:**

Would the Minister advise whether the current pay and conditions of Condor Ferries' crews were a consideration when the decision was made to extend the company's permit to operate car and passenger ferry services to and from the Island and, if not, why not, given the recent industrial action or the current industrial action by staff?

**Senator A.J.H. Maclean (The Minister for Economic Development):**

The decision to amend the air and sea transport policy that I addressed in a statement on 4th December 2012 allowed for a ramp permit to be awarded to Condor Ferries for a 5-year period, commencing 1st January this year. That decision was made to allow car and passenger ferry services to continue lawfully while work was undertaken to find a long-term solution for car, passenger and freight ferry services to the U.K. and France. Pay and conditions for crew are carefully regulated through the marine authorities to which Condor is accountable, including D.N.V. (Det Norske Veritas) and the Bahamas flag, which is recognised as one of the top 10 flag state authorities worldwide. Condor Ferries meets or exceeds all of its regulatory obligations, including the Maritime Labour Convention which is a key component of its permit to operate. I am assured the pay and conditions that Condor pays all its crews, regardless of residency, is compliant with legislation and benchmarks favourably with other ferry companies. Indeed, prior to this current dispute, Condor Ferries has been strike-free and has enjoyed good industrial relations with its workforce.

**4.3.1 The Connétable of St. John:**

The Minister mentioned long-term solutions. It appears not to be so. Given that we have had this unrest and strike now for 13 days, I would like to know what in fact the Minister and his department are doing to put in place a lifeline route to and from the Continent for the Island of Jersey?

**Senator A.J.H. Maclean:**

It is not for the Minister to lay on a service between Jersey and St. Malo. There are obviously concerns that passengers, both car and individuals, can get to their destination in a timely fashion and clearly this dispute is very disruptive for Islanders, a thoroughly unsatisfactory situation. Condor have, therefore, made plans to ensure that passengers, and particularly cars, can route via the U.K. and Brittany Ferries as a contingency if the dispute is not resolved. That is being taken up by some people, although I accept it is not an ideal situation. We are also working with industries

such as fishing to consider how catch can be got across to France on a different route, and that is also progressing as a plan at the moment.

#### **4.3.2 Connétable A.S. Crowcroft of St. Helier:**

The Minister says it is not his job to ensure the viability of these services. Is the Minister aware that the Conseil Général invests a great deal into the provision of ferry services from Granville to Jersey and does he not think that the States of Jersey should be showing an equal willingness to do the same thing?

#### **Senator A.J.H. Maclean:**

I prefer to draw an example of Guernsey's experience in purchasing an airline to secure airline services between Guernsey and the U.K. I believe that the services provided since 1964 by Condor have been, on the whole, exceptionally beneficial for the Island. What we are interested in doing is ensuring that we have safe, reliable and year-round services into the future, and that is the purpose of the negotiations currently underway. This particular most unsatisfactory strike position that the Islands find themselves in, where effectively we are being held to ransom, is unacceptable, but it is a matter for the company to resolve this dispute with their staff and with the unions in question, and that is what they are seeking to do. We have made it clear that this happens quickly.

#### **4.3.3 Deputy R.G. Le Hérissier of St. Saviour:**

Given the Minister, and indeed the company, have constantly talked about the financially precarious situation that appears to underlie that route, would he tell us at what point he will intervene, or will he step back and simply allow the route to collapse if things cannot be resolved? At what point will he intervene?

#### **Senator A.J.H. Maclean:**

The question for the Deputy is the type of intervention that he is referring to. First of all, we should point out that this is not the only strike action occurring in Brittany at the moment. During January alone there were about 4 or 5 cases of different industries that are suffering strike action. We have also seen other ferry companies in 2012... Brittany Ferries, which has often been referred to as a possible provider of services to and from the Channel Islands and France, themselves had 2 weeks. I hasten to add they have got contracts with French staff that are French contracts and they still were unable to carry out services for a considerable period of time. We are working with Condor to ensure that they have everything they need to be able to negotiate successfully and resolve this issue as quickly as possible. I believe that they will do so.

#### **4.3.4 Deputy R.G. Le Hérissier:**

Could the Minister define what he means by "everything they need"?

#### **Senator A.J.H. Maclean:**

Both as Minister and on behalf of the States I have made it clear to Condor that if they require any further assistance from us then we will consider supplying that in order to open up the routes as quickly as we possibly can. But they are satisfied that seeking to negotiate with their staff is the most appropriate way forward and that is what they are doing and we support them in that decision.

#### **4.3.5 Senator L.J. Farnham:**

Could the Minister shed any light on how 9 members of a crew of perhaps 80 or 90 can prevent a vessel from sailing? I am slightly confused as to why this small number of the crew has ceased all sailing.

**Senator A.J.H. Maclean:**

I think this matter has been covered in the media, but there were in fact 20 crew who originally took over the vessel regarding concerns around pay and conditions. Since that point, it has been whittled down to 11, and in fact I understand it is less than that now who are still in dispute. It clearly would be the right of the company, of Condor, to have removed the individuals from their vessel. To do so, you will appreciate would have escalated the situation. I believe that Condor have taken the right decision to seek to negotiate with their staff and the unions to find an early solution. That is what they are seeking to do and I trust they will be successful quickly.

**4.3.6 Deputy M. Tadier:**

Will the Minister advise what he thinks it says about Condor's attitude towards current pay and conditions when they are willing to pay significant amounts of money to their competitors at their own loss rather than increase and improve the terms and conditions of their own workers who are making money for the company on a normal day-to-day basis?

**Senator A.J.H. Maclean:**

There is no particular link between that at all. Clearly what Condor are doing is seeking to ensure that a level of service is provided to Islanders to get Islanders from the Island to France as quickly as possible. The fact they are having to pay a considerable amount of money to a competitor, in this case Brittany Ferries, to route Islanders via the U.K. shows the commitment that Condor have got to Jersey. It should not be overlooked that so far this strike action has cost Condor £500,000. They are prepared to negotiate; they want to negotiate; they are meeting all necessary international standards. I might add that crew terms and conditions are determined by the flag state, which at the moment is the Bahamian flag, and that, as Members will be aware, is one of the top 10 flag states in the world.

**4.3.7 Deputy M. Tadier:**

Would the Minister not accept that the most efficient way for ensuring their service level agreement would not be to pay a rival company to do a massive detour and inconvenience their customers but rather to sit down and have this resolved and meet the demands of the striking workers so that the service can be resumed now without any further loss to the company, to the workers or to the travelling public?

**Senator A.J.H. Maclean:**

The solution that Condor have put in place, at cost to themselves, to get Islanders to France is a short-term solution. What the Deputy is referring to is a long-term cost, a significant cost. Make no mistake, the demands being put forward by the crew, and in particular the union in St. Malo, are unaffordable, it appears. It is gold-plated in many respects and if the Deputy would like to see consumer prices rising dramatically then that is the sort of outcome that he is likely to get should all those requests be acceded to. In fact, one needs to look only to Brittany Ferries, who have French contracts for all their crew and staff, who have lost money for the last 3 or 4 years and have more than €90 million of debt associated.

**4.3.8 The Connétable of St. John:**

We have seen Condor and Commodore publicly in the media mention the wages paid and those are paid on a par with the Eastern Bloc countries, which does not please me in any way, given we have a minimum wage in Jersey, as they do in the U.K. Wherever the ship may be registered, it still concerns myself and others. With that, what pressure is the Minister putting on E.D.D. (Economic

Development Department) staff to locate another operator to fill the hole that is currently in place? What is he doing about finding a temporary operator that may want to come on the route permanently?

**Senator A.J.H. Maclean:**

This matter has been covered on many occasions previously. There have been reports, economic studies into the viability of competition on the route. It is all very well for the Connétable to say what are we doing to find another operator. Immediately you find another operator you will not find it sustainable. We have seen that with HD Ferries in the past; short-term gain for consumers with low prices but not sustainable. What we need are safe, year-round, reliable services at a fair price and that is what we are seeking to deliver. This strike action is entirely separate to the management and the longer-term issues around the sea routes that serve the Island both from the U.K. and also to France. I would simply add that with regard to pay, which the Connétable was also referring to, less than 10 per cent of the crew on Condor Ferries are non-E.U. (European Union) residents and therefore the pay is of some issue to some. For those striking at the moment, the French crew, the minimum is €18,000, well above the average that is currently paid in Brittany, and more than €30,000 is the highest of these particular crew members, who are deckhands.

**4.4 Deputy M.R. Higgins of the Minister for Health and Social Services regarding the legal basis for the Department's patient travel policy:**

Will the Minister explain to Members the legal basis for the department's patient travel policy?

**The Deputy of Trinity (The Minister for Health and Social Services):**

The travel policy is a policy not a legal or a strategy document. It has been in place for well over 10 years and allows the Health and Social Services Department to assist members of the public on low incomes with their travel and accommodation costs when they are accessing health services in Guernsey or U.K. The policy is a voluntary scheme for members of the public who wish to be considered for financial assistance with their travel.

[10:15]

If they take up this option they are required to produce evidence of household income. The information being requested is proportionate in that assistance is directly linked to a relevant band of household income.

**4.4.1 Deputy M.R. Higgins:**

The Minister is well aware that there are many elderly people in this Island who have been referred off-Island by consultants to hospitals in the U.K. who, as a matter of principle - and I might add they are not wealthy - will not fill in a means test form because they feel it is demeaning and prying into their private affairs. Will she not confirm that a number of patients have had to forego urgently needed operations in the U.K. quite simply because her department is being inflexible on this issue?

**The Deputy of Trinity:**

I know of 2 families, which the Deputy brought to my attention and we are trying to find a way round, but we do not know whether they are eligible for free travel until they fill out the form. The assistance is there to help families, and children as well, to be able to access elective care. If they need emergency care, that is covered.

**4.4.2 Deputy G.P. Southern of St. Helier:**

Is the Minister aware of 2 problems with her scheme in that (a) normally the scheme only applies to a single person not accompanied and they have to go through hoops to achieve that, which is often necessary, and (b) that monies for travel and accommodation expenses are paid often in arrears and many people cannot afford to fork out whatever, a few hundred pounds, before claiming it back? Should it not be more often paid in advance?

**The Deputy of Trinity:**

I think the travel has been tightened-up. The Deputy asked 2 or 3 questions in there. Regarding escorts, the department will pay for an escort if it is required and it becomes a clinical decision on a case-by-case purpose. Regarding expenses and whatever, we have now made sure that if someone goes over for the day - and that is what we would encourage - that the appointment time is at the middle of the day so they go there and come back in a day.

**The Bailiff:**

I think the question, Minister, was whether you could pay in advance rather than in arrears.

**The Deputy of Trinity:**

If they go and come back in a day there is no paying in advance because they are not encouraged to stay overnight.

**Deputy G.P. Southern:**

I do not know whether that was they are not encouraged or they are encouraged and there is pay or there is not pay. I do not hear the “not” in there. I am not at all clear.

**The Deputy of Trinity:**

As I said, we have tightened-up with appointments so if a patient needs to go to have an appointment in Southampton or whatever, the appointment now is made at lunchtime, early afternoon, so that they can go and come back in a day, which stops paying for overnight accommodation.

**Deputy G.P. Southern:**

Is that in advance or otherwise? Is it paid for in advance?

**The Deputy of Trinity:**

If their flight is paid for, there is nothing to advance.

**4.4.3 Deputy G.P. Southern:**

A supplementary relating to the answer that we have just received is that is the Minister aware that it is often very difficult to get appointments only in the middle of the day? Specialists in the U.K. say: “You will come to see me when I say” and an overnight stay is often required and, again, this requires people to go through hoops to succeed in getting treatment abroad.

**The Deputy of Trinity:**

I think that is very important and the work done with U.K. hospitals is one of the conditions to ensure that people have time to get to their appointments at lunchtime or whatever and then can come back in a day. If it is not feasible, there is usually a good reason for it.

**4.4.4 Deputy J.A. Hilton:**

I think the time has probably come for the Minister to look at the policy again with regard to people on extremely low incomes being able to finance accommodation prior to them going if that is what they need to do. **[Approbation]** I will come to my question. The Minister mentioned that it was a voluntary scheme for the public on low income. Can she give Members some indication of the level of income that would qualify an applicant looking for assistance?

**The Deputy of Trinity:**

The scheme is very generous. For adults with no residential children it is £92,000.

**4.4.5 Deputy M. Tadier:**

Does the Minister not acknowledge that there is a fundamental issue to be addressed here that if provision, which would otherwise be provided in Jersey but is provided in the U.K. or overseas for technical or practical reasons, it should also be free and therefore inclusive of travel but for everybody, not simply for those on lowest income, because everybody pays their taxes for health care that would normally be provided at the hospital? If that is not available then everybody has the right to expect free travel for an equivalent service in the U.K. Would the Minister advise if that is what she is working to and, if not, why not?

**The Deputy of Trinity:**

If you need emergency medical treatment, transferring from hospital to hospital is free. If free travel is wished for, therefore it has to come out of our budget. At the moment it is costing well over £500,000 for travel. There will always be some travel off-Island. We are no different to other hospitals in the U.K. If you live in Cornwall and you need to have treatment in a London hospital, you will pay for that and you will probably go by train, which will probably cost you just under £200 to get there and back. Unfortunately there is no right to have free transport. That is why our travel policy is in place so that we support families who need that assistance.

**4.4.6 Deputy T.A. Vallois of St. Saviour:**

The Minister, in the answer to the first question, stated that this was just a policy and was not statutory basis. Could I ask the Minister whether the Health Department have considered whether they would put this policy as a statutory basis? If not, why, and if so, what are the pros and cons?

**The Deputy of Trinity:**

We have not done that. Under the United Nations, there is no human right to free health care or free subsidised travel for provision of healthcare. If we did do that, I dread to think how much it would cost. Part of our aim of going forward with the new hospital is trying to provide as much as we can here in Jersey to prevent patients going to the U.K.

**4.4.7 Deputy M.R. Higgins:**

I think Islanders will be very surprised to hear that there is no such thing as free health care. We have a hospital that cannot cater for all the needs of the Island. We will never be able to have all the specialists we need and all the facilities we need. Does that mean then that the Minister is saying that Islanders are not going to get the health care that they expect and they have been paying their taxes for? To say they do not have a human right and quote the United Nations I think is beyond the pale. We are paying money into the States to provide these services.

**The Bailiff:**

I think you have asked your question, Deputy.

**Deputy M.R. Higgins:**

I have asked the question, Sir.

**The Deputy of Trinity:**

We provide free health care at the point of secondary care and tertiary care. That is what we provide in Jersey. I am very proud of the service that we provide, but unfortunately there are some travel arrangements. People who have a household income under £92,000 will not have to contribute towards their travel. We get very good competitive rates for the price of the flight across and that is all done within the Travel Department.

**4.5 Deputy G.C.L. Baudains of St. Clement of the Minister for Transport and Technical Services regarding the environmental practices of the scrap metal facility at Bellozanne:**

Further to my recent question regarding the scrap metal facility at Bellozanne, would the Minister not concede that removing upholstery from vehicles before crushing would be an environmentally superior option?

**Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services):**

At present there are no viable markets for the recycling of polyurethane foam and fabric, which are the main components of upholstery from automotive sources. However, H.J.L. (Hunts (Jersey) Limited) and their partners are in the process of building a dedicated thermal processing plant in the U.K. using state-of-the-art process technology that will turn residual rubber foam and fabric into electricity. When the thermal processing plant commences operation in the first half of 2014, well over 95 per cent of the weight of the car will have been reused, recycled or turned into energy without any of the costs, risks and environmental burdens associated with removing the upholstery prior to crushing.

**4.5.1 Deputy G.C.L. Baudains:**

It seems to me that there are several advantages associated with removing upholstery before crushing: less volume to ship, easier fragmentation when the crushed vehicle reaches its destination and more fuel for our incinerator to produce electricity, that is assuming it has not broken down. Would the Minister not agree this would be an environmentally superior alternative and would he advise whether it was his department that required the current contractor to use this process or was the decision made by the contractor themselves?

**Deputy K.C. Lewis:**

There are very limited outlets that can use the residual covering. It is only fit for incineration really. It is very light weight. The cost of transport is negligible, it is such a light weight. Adding to the cost, importantly, of environmental impacts. It is a very high cost of removal, which is manual and labour intensive, and there is a high risk of using labour with sharp tools in manual processes. So it is not economically viable.

**4.5.2 Senator S.C. Ferguson:**

Is the Minister aware that the system under the prior company, that of being able to obtain spare parts for old cars, is apparently no longer possible with the new company? They just cube the old cars and all the ability of getting a spare door or a spare bumper or something like that has totally gone, so they are not really recycling. Is the Minister aware of that and what does he propose to do about it?

**Deputy K.C. Lewis:**

I have heard this many times before and, sadly, it is incorrect. The company does hold a limited amount of the, shall we say, common spares. Any other spares that are required can be ordered in advance. If the Senator would like a door for her VW or whatever, you phone-up and as soon as one comes in it is removed, put to one side and can be collected.

**4.5.3 Deputy G.C.L. Baudains:**

In his previous answer to my supplementary, I could not understand what the Minister was on about with regard to the problem of taking upholstery out of a car. It seems to me that when the vehicle reaches the other side in a crushed condition any upholstery is going to be completely unrecyclable and everything is going to be mixed up. As an example, would the Minister tell me what happens if a bus or coach is scrapped? Clearly that cannot be crushed because it is too big to go in the machine. Is the upholstery taken out for those and, if so, where does it go?

**Deputy K.C. Lewis:**

Not to my knowledge. If a large vehicle is too big to go into the crusher, it has to be cut in half, but there is no value for the upholstery whatsoever.

**4.6 Deputy R.J. Rondel of St. Helier of the Minister for Treasury and Resources regarding proposed developments for social/affordable homes for purchase:**

Would the Minister, or possibly the Assistant Minister, provide an update on the proposed developments for social and affordable homes for purchase on the former Norman's timber yard, the Jersey College for Girls' site and the South Hill site?

**Deputy E.J. Noel of St. Lawrence (Assistant Minister for Treasury and Resources - rapporteur):**

The Norman's timber yard site was included as a potential development site in the previous Fort Regent Political Steering Group Interim Report, R.134/2011. The current steering group undertook an outline assessment of the development potential of the site as a possible extension to the Housing Department's estate. Ministerial decisions were signed by the Minister for Housing and myself to transfer the site into the Housing Department's administration. Before the actual transfer of the site and committing significant funds, J.P.H. (Jersey Property Holdings) sought the advice of the Law Officers' Department with regard to ownership. The advice received on 7th January this year is that the majority of the site is not in public ownership and therefore further work on the site has ceased.

[10:30]

Submission of revised planning application for the former J.C.G. (Jersey College for Girls) site has been delayed while a solution to improved parking for staff and parents at Janvrin School was progressed. I am pleased to advise that the proposal has now been agreed with the school and the Education Department. Subject to approval of the revised planning application, the development of the site will be for 75 social and affordable homes, 40 of which being social rented housing and 35 key worker shared equity homes, and a further 108 open market properties are expected. This site is expected to commence in early 2015. The South Hill site will be available for alternative use when the current functions are relocated. Although no scheme has been developed for the South Hill site, it is likely that it will comprise mainly of open market residential development to maximise the financial return to the public for reinvestment in further capital works.

#### **4.6.1 Deputy R.J. Rondel:**

I thank the Assistant Minister for that detailed reply. Could he advise how will any delays impact on the Treasury in terms of capital spending, as advised by the Fiscal Policy Panel in 2014 and their recommendation that the effectiveness of fiscal stimulus through capital spending depends on bringing forward capital projects and making sure the expenditure takes place on time?

#### **Deputy E.J. Noel:**

Treasury, along with other departments, are actively working at bringing forward as many of the capital programmes as we can. Sometimes, outside of our control, there have been delays but I can assure Members that all capital programmes - not just the provision of social housing - are being fast-tracked as much as possible.

#### **4.6.2 Deputy J.A. Hilton:**

The Assistant Minister told Members that the J.C.G. site was going to produce 108 'Category B' homes, which is open market homes. Does not the Assistant Minister think, in light of the fact that we have 700 families waiting in the Island to be rehoused with social and affordable housing, that they should relook at those plans with the intention of bringing back more social and affordable housing?

#### **Deputy E.J. Noel:**

In all these things we have to have a balance because at the end of the day the schemes that we develop have to be affordable. We have in fact already increased on that site from 40 units to a total of 75 units for social and affordable homes, so we are trying to push the boundaries. These are in addition to the 150 homes that, under the Island Plan, we were tasked to provide; 152 of those are on the Summerland and Ambulance Station site. These 75 homes on the J.C.G. site will exceed the total required. We are also working on other sites to see if additional social housing can be provided, such sites as the remainder of the current Police Station site once the Fire and Ambulance Service has been reconfigured; the Le Bas Centre; and we have also identified sites at the bottom of Bellozanne where Beresford House is. So we are testing departments and ensuring that wherever possible we can find additional social housing and affordable housing sites on States land, but I am afraid that, as we will probably be debating later this year, we will probably have to consider rezoning other suitable parcels of land on the Island.

#### **4.6.3 Deputy J.A. Hilton:**

That is not good enough in my opinion. There are 700 families waiting to be housed and 225 units, as the Assistant Minister has just relayed to Members, in the offing. This is a site in States ownership and is shovel-ready. Why are we not providing much needed homes on this site rather than looking at greenfield sites or glasshouse sites that are going to take 2 or 3 years to deliver? When are the Council of Ministers going to put their money where their mouth is and provide housing for families on this Island? **[Approbation]**

#### **Deputy E.J. Noel:**

I think the Deputy is being a bit disingenuous there because these are additional sites in addition to what the Housing Department are currently providing. The Housing Department themselves have got an ambitious programme to deliver affordable homes for Islanders on their existing sites, the bottom of Green Street for example, the La Collette sites there. They are looking at increasing the density there. They have done a marvellous job and are continuing to do a marvellous job on Le Squez. In the round, the public are providing a significant number of increased units. Yes, we do

need to do more, yes, we need to get them to the marketplace quicker, which is exactly why we need to think outside the box and consider using other sites that are suitable.

#### **4.6.4 Deputy J.H. Young:**

The Assistant Minister has told us that the 3 sites that the Deputy has questioned have been in the Island Plan for a number of years. Of those sites, the first one we have now found out we do not own. The second one, at South Hill, is still a dreamland scheme. There is no viable option or even proposal to produce it. On the last one, the J.C.G., we might see some housing by 2017, which to my way of thinking it is about 20 years since the girls walked down the road to the new school. With that background, he has mentioned a number of other sites. Is it not time now he brings back a revised plan to this Assembly? Those sites that he has mentioned, which I think his ...

#### **The Bailiff:**

A concise question if you would please, Deputy.

#### **Deputy J.H. Young:**

Would he bring back a plan telling us if these sites cannot work how he is going to meet the housing needs from States-owned sites as soon as possible?

#### **Deputy E.J. Noel:**

Just to correct Deputy Young, the Fort Regent site was not in the Island Plan. That was an additional site that was identified by the steering group. With regard to the other sites, these things take time. I cannot take responsibility for previous States decisions with regard to J.C.G. but Treasury, in conjunction with S.o.J.D.C. (States of Jersey Development Company) and the Regeneration Steering Group, are pushing forward on that site. The bulk of the social housing need is being provided by the Housing Department and their newly-incorporated company in the summer, and they will be providing the bulk of the need.

#### **4.6.5 Deputy M. Tadier:**

Would the Assistant Minister advise whether the Treasury Department is susceptible to lobbying from groups who have a vested interest in keeping prices high by ensuring that demand exceeds supply and that there is a tension between that group and those who want to see prices come down and see truly affordable properties in Jersey, which we know we can deliver and we know we can start to deliver now on shovel-ready sites? Will the Assistant Minister acknowledge that that is definitely a factor in the consideration and that the Treasury are being lobbied hard from those who want to keep house prices high and even soaring in this Island?

#### **Deputy E.J. Noel:**

I can quite clearly state that we have not been lobbied to keep prices high. In fact, the Treasury Department are doing exactly the opposite. We are trying to increase supply to the market with our colleagues at Housing. At no time in my 5½ years in this Assembly have I been lobbied by the industry to keep prices high. It is exactly the opposite of what I personally want to see in this Island.

#### **4.6.6 Deputy R.J. Rondel:**

There certainly does seem to be a strengthening in the marketplace at the moment in prices for homes, but would the Assistant Minister please provide Members with an updated list of all States-owned sites proposed for development, together with the number of units, the category of unit and the year in which they hope to deliver the badly needed homes for both young and old Islanders?

**Deputy E.J. Noel:**

I am happy to do that. The information is already in the public domain. It is already in our business plan, but I am happy to provide Members with an update.

**4.7 The Connétable of St. Helier of the Minister for Economic Development regarding fast ferry services between St. Helier and St. Malo:**

Would the Minister explain what steps, if any, he is taking to ensure the continuity and reliability of fast-ferry services between St. Helier and St. Malo?

**Senator A.J.H. Maclean (The Minister for Economic Development):**

There is no doubt that the unplanned industrial action by a small minority of Condor Ferries French employees has caused unacceptable inconvenience and disruption to Jersey residents, a situation that is thoroughly unsatisfactory. I am in regular contact with senior management of Condor to receive progress updates. It will not be a surprise to Members that I have offered my full support and that of the States to assist in a rapid resolution, but Condor Ferries have indicated that they are seeking to resolve the issue through negotiation with their striking employees and their respective union representatives. I believe that that is the best course of action. These negotiations are now progressing constructively and I have made it clear to Condor that we expect a resolution as quickly as possible. I expect that to be the outcome.

**4.7.1 Deputy M. Tadier:**

Does the Minister think it might be worth asking Condor's directors and management to see if they would accept a reduction in their terms and conditions, perhaps switch to Eastern European contracts for the time being, so that they can get over this hump as an act of solidarity with the French striking workers?

**Senator A.J.H. Maclean:**

The Deputy could equally ask the question of P&O, Brittany Ferries or any other ferry companies that he so chooses. That is not really a very realistic question or a constructive one.

**4.7.2 Deputy M. Tadier:**

I could and I would but, as I understand, P&O and Brittany Ferries are not the operator that serves Jersey. They are not the ones currently causing an issue with transport and they are not the ones with whom we have a service level agreement, so I will disregard those comments from the Minister. Will the Minister take the opportunity to send a message of solidarity to the workers on the French ship that is currently being held saying that, we, the workers in Jersey, some of whom are also in this Assembly, respect what they are doing and that in these times of austerity when we see large corporations stand up for their right to exploit workers on a daily basis without anybody batting an eyelid, it is good to see workers, who are seeing their quality of living being eroded by an austerity programme, doing the same for themselves and we should have more of that in this Island and Europe.

**Senator A.J.H. Maclean:**

The short answer is no. The Deputy ...

**The Bailiff:**

That probably is not different then. [Laughter]

**Senator A.J.H. Maclean:**

I think I should expand very briefly because the Deputy raises an important point and that is that staff, quite rightly, should have the right to be heard, should have a fair and reasonable deal and, as far as I am concerned, when you consider this is a minority of Condor Ferry staff ... this initially was 11 staff out of more than 130 in total across the group, the majority of which are totally satisfied with their terms and conditions. However, it is quite appropriate that staff have the opportunity to raise concerns and have the opportunity to be heard in discussions and negotiations. What is not acceptable is unplanned, wild cat strikes that cause enormous disruption to Islanders.

#### **4.7.3 Deputy S. Pinel of St. Clement:**

Would the Minister advise what measures have been considered or taken to support business that relies totally on the Jersey to St. Malo route, for instance the export of Jersey shellfish to France?

#### **Senator A.J.H. Maclean:**

The Deputy raises an important question. Yes, there have been discussions about finding suitable craft to get catch from the fisheries industry across to France. That is progressing. Of course, disruption has occurred in any event due to the weather conditions where fishermen have been unable to get out and fish very much at all. It has not been such a pressing problem as it might have been at another time of the year, but there is a possible resolution in place if necessary.

#### **4.7.4 Deputy S. Pinel:**

I am aware of one shellfish export business that is paying Harbours £1,600 a week at the moment for rent, electricity and insurance. Could not some sort of holiday or break in this be considered as they currently cannot operate at all?

#### **Senator A.J.H. Maclean:**

We have considered support for the fishing industry, but Members will appreciate there are many other industries also suffering at this time and it is very difficult to draw a conclusion as to the appropriate type of short-measure support that could be given. The fishing industry gets a lot of benefits anyway in terms of reduced or zero harbour dues and other benefits that are given by the department. Clearly we are very happy to talk, as we have done recently, to the Fishermen's Association. There have not been requests from them for any assistance at this stage, but we are always happy to consider any proposals that are put forward.

#### **4.7.5 Deputy R.G. Le Hérissier:**

Would the Minister confirm that, notwithstanding the current difficulties, he is absolutely convinced that the financial model used by Condor is one that is sustainable in the long term?

#### **Senator A.J.H. Maclean:**

Perhaps the Deputy could clarify whether he is talking about their overall model of operating ferry and freight services, car and passenger, to and from the U.K., Jersey and France or whether he is referring to their model specifically around pay and conditions of staff.

#### **Deputy R.G. Le Hérissier:**

No, I mean the model on the continental routes.

#### **Senator A.J.H. Maclean:**

I would say that it is not just the continental routes because it has been assessed by a number of reports. Oxera and such like have done economic modelling on car and passenger services and freight to and from the U.K. and to the Continent.

[10.45]

The overwhelming view is that it is a network of routes, which is the reason why we have been in discussion with and are operating in conjunction with Guernsey in that regard. We believe that the Condor model and what is on the table currently is both sustainable for the long term and provides the Island with the best possible service that they could hope to have at this time.

**4.7.6 The Connétable of St. John:**

Given P&O Ferries were the Island's preferred operator some years ago when this route went out to tender and that agreement was scotched by Guernsey given that they preferred their own company, i.e. Condor, to run the route, has the Minister been in talks with Guernsey about talking yet again to P&O and see whether they would take over this route, given they have shown in the past.

**Senator A.J.H. Maclean:**

The Connétable is continually looking to the past. 1997 was the occasion that he is referring to in this particular instance. In those days it may well have been the best outcome for the Island, but the fact was that, for reasons I will not go into now, it did not become the outcome. The fact of the matter is that although Condor was originally a Guernsey and still is a Guernsey company it is no longer owned in Guernsey. It is owned by Macquarie. Macquarie very much view Condor Ferry Services, which operate between the U.K., Jersey, Guernsey and France, as a Channel Islands company and that is the way in which we prefer to deal with Condor as well. It is a Channel Islands... and, as a Channel Islands network of services, it is the way in which we are going to have safe, reliable, year-round services delivered at fair prices for Islanders, which is what I believe they wish to see.

**The Connétable of St. John:**

The Minister did not answer my question. Has he been in contact with his Guernsey colleagues to put pressure on the company, whether it is held within the Bailiwick of Guernsey or not? If not, why not?

**Senator A.J.H. Maclean:**

I can give a very clear answer to this for the Connétable. 1997 was an entirely different economic climate to what we have seen in recent years. There are many ferry companies that have gone out of business. Ferry companies are struggling. We have seen, in 2012, Brittany Ferries making losses for 3 or 4 years.

**The Connétable of St. John:**

Is it yes or no?

**The Bailiff:**

The question is whether you have been in touch with Guernsey about talking to P&O.

**Senator A.J.H. Maclean:**

With our colleagues in Guernsey we have considered all options with regard to the future sustaining of services between the Islands and the U.K.

**The Connétable of St. John:**

Is it yes or no?

**Senator A.J.H. Maclean:**

We have considered all options.

**The Connétable of St. John:**

So it is no then.

**4.7.7 The Connétable of St. Helier:**

What message does the Minister have for Islanders whose travel plans have been disrupted and representatives of the hospitality industry in particular, both here and in St. Malo, who are seeing falling revenues as a result of the strike?

**Senator A.J.H. Maclean:**

The simple message is that we are, as I have said, urging Condor, through negotiations with their staff and the unions, to seek a very early resolution to this most unsatisfactory situation. I noted only this morning that business leaders in St. Malo have also been urging for an earlier resolution. Businesses clearly will be impacted in St. Malo at that end as much as it is here. It is for businesses in Jersey but it is also consumers, with half-term coming up this week, that we wish to see an early resolution and I would certainly hope that is exactly what we will see.

**4.8 Deputy R.G. Le Hérissier of the Minister for Housing regarding the provision of flooring in States properties:**

Will the Minister confirm that it is his department's policy not to provide carpets or flooring for its properties and, if so, will he advise whether he thinks that it is reasonable and appropriate to expect tenants to provide their own flooring before moving into a property?

**Deputy A.K.F. Green of St. Helier (The Minister for Housing):**

I can confirm that it is not the Housing Department's policy to provide carpets or floor coverings for its properties. As I have stated on many occasions, I believe it is the responsibility of the Housing Department to provide homes. It is for the Social Security Department to provide financial assistance to support those with limited financial means who might need help with this.

**4.8.1 Deputy R.G. Le Hérissier:**

I wonder if the Minister would be prepared to change tack. What I would like to ask is, does he not believe there are some circumstances in which, in order that a house can appear to be totally habitable, it is essential that flooring be seen as an integral part of that house or apartment?

**Deputy A.K.F. Green:**

Clearly every house and flat that we have has a floor, but whether it has covering or not is entirely a matter for the tenant moving in. If the tenant needs help with that, then Social Security will provide it. One policy that has slightly changed - and I am pleased to say that - over the years is, when serviceable carpets were left by previous tenants before, they used to be removed. They are now left if they are serviceable and cleaned if they require cleaning, again with the support of Social Security.

**4.8.2 Deputy C.F. Labey of Grouville:**

I do not think the Minister is current with all his practices in the department because I happen to know a tenant that was made to rip up wooden flooring in his apartment before the new tenants were able to move in or even see the flat. Could he go back to his department and make sure this practice stops?

**Deputy A.K.F. Green:**

I have to check that in relation to wooden flooring. I was initially talking about carpeting.

**4.8.3 Deputy T.A. Vallois:**

Albeit that the Minister stated that they do not provide the carpets or flooring for moving into a property, does the Minister not agree that the change in policy for rents in advance rather than rents in arrears will cause more of a problem for tenants and more of a problem for Social Security in them being able to furnish their property once they have moved into it?

**Deputy A.K.F. Green:**

We have a clear choice here at Housing. We provide more homes and maintain those homes properly or we provide fewer homes and we carpet them. People that need help with carpeting get help from Social Security. There are a few exceptions that I did not mention before because I had one of my senior moments. If we make people move, if we insist that people move to downsize, then we will assist them in the Housing Department.

**4.8.4 Deputy M. Tadier:**

First of all, would the Minister explain that there is also a policy which says that if you live on a first, second or third floor, *et cetera*, you should not have wooden floors; you should have carpets? Would he explain how that fits in? If somebody does not have any carpets when they move in and may even have a wooden-type floor or concrete floor, are they obliged to put carpets in or are they allowed to have concrete floors which are bare but not have wooden laminated floors because that will make noise?

**Deputy A.K.F. Green:**

The Deputy raises an interesting point. When you are living in flats you have to take account of your neighbours and behave in a sociable way. These laminate wooden floors do make a lot of noise and that is why, not just in social housing but in lots of blocks of flats, it is not unusual for that sort of flooring not to be allowed. With regard to the question about waiting until you can afford carpets, I had concrete floors for 5 years in my house before I could afford my carpet.

**4.8.5 Deputy M. Tadier:**

Although we are not here to talk about the Deputy's house, presumably he owned his own house. Is the underlying point again here - not the under-laying point, but the underlying point **[Laughter]** if you will excuse the Mexican carpet joke slipping into question time - not that the person who owns the house is not the tenant? It is the landlord and by adding a carpet you are increasing the asset which belongs to the landlord. Therefore, if you are in a home for a year before moving to the private sector, to a trust or to another social house, why, as a tenant and as one of the most vulnerable, probably in the Island, in one of the poorest sections of the Island, should you be expected to pay for an asset which ultimately goes to the landlord because over decades the States has not been investing in housing and it has been ...

**The Bailiff:**

Concise question, please. I think you have asked that.

**Deputy M. Tadier:**

I think the Minister knows the gist.

**Deputy A.K.F. Green:**

It is quite simple. Whenever I have moved house I have taken my carpets with me.

**Deputy M. Tadier:**

That is not an answer. We are talking about the rental sector. Is it reasonable to expect tenants for a short period of time to carpet a property which does not belong to them?

**Deputy A.K.F. Green:**

Our tenants are not normally in place for a short period of time. Our job is to provide homes and then the tenants go in and make that structure their home. Some people will need help with that. That is what Social Security is there for. They will provide that help.

**4.8.6 Deputy G.P. Southern:**

Is the Minister currently working to establish some sort of uniformity on transfer of homes in the States sector, in the trust sector and indeed in the private sector so that there is some uniformity about the terms on which people transfer and move from one property to another?

**Deputy A.K.F. Green:**

I can confirm that I am working on uniformity between the trust and the Housing Department.

**4.8.7 Senator S.C. Ferguson:**

It does occur to me, is it not time to improve the building procedures so that people can have the floor they wish?

**Deputy A.K.F. Green:**

Certainly, and we are always looking at ways of improving the standard of our social housing.

**Senator S.C. Ferguson:**

No, I said the standard of buildings. The Minister has not answered the question.

**Deputy A.K.F. Green:**

No, because the by-laws that relate to buildings in that respect would be one for Planning. However, as the Minister for Housing, yes, we are looking all the time at how we can improve our quality of social housing.

**4.8.8 Deputy R.G. Le Hérisier:**

Would the Minister not concede that he should have a more fitting policy in terms of people for whom good flooring does indeed help, for example, with noise mitigation? He seems to be obsessed with the idea that people who have carpets are somehow exceptionally rich.

**Deputy A.K.F. Green:**

That is not what I have said at all. What I have said is that those that can afford to put their carpets in do so and those that need assistance from Social Security would get it. That is as I see it. It is very simple. My job is to provide homes.

**4.9 Deputy M. Tadier of the Minister for Home Affairs regarding an investigation into threatening letters sent to a number of individuals linked to the case involving the former Deputies Pitman:**

Given the police have stated that a forensic investigation has failed to identify who is behind the threatening letters sent to a number of individuals linked to the case involving the former Deputies Pitman, can the Minister clarify whether anyone was interviewed and whether or not D.N.A. (deoxyribonucleic acid) testing was undertaken?

**Senator B.I. Le Marquand (The Minister for Home Affairs):**

All 4 recipients of letters, who are referred to as victims, were spoken to by the police. Forensic examinations were conducted on the letters, including both fingerprint and D.N.A. testing. These lines of inquiry were inconclusive and failed to identify those responsible for sending the letters. No persons have been interviewed under caution in relation to this investigation.

**4.9.1 Deputy M. Tadier:**

Does the Minister accept that this was a serious incident with only 2 corollaries? The first is that the Pitmans themselves sent the threatening letters, which must be unacceptable, or the alternative, which I probably favour but is obviously speculation, that somebody else sent the letters probably to try and make it look like 2 sitting States Members were sending threatening letters. Does the Minister accept that this is a very serious situation to be in and has implications for our Assembly and the safety of our Members and their reputations? Is the Minister satisfied that the process was conducive to achieving some kind of satisfactory outcome for all those concerned?

**Senator B.I. Le Marquand:**

The Deputy has asked me to speculate on the possible different ways in which this might have arisen. In fact, I can think of at least one further way, which of course would be if there was some third party who somehow thought, by sending these letters, they were supporting the former Deputies, but there are probably a whole host of other scenarios which might arise. I am not going to speculate on that. As far as the investigative process is concerned, on the face of it, it appears to me to have been fully appropriate.

**4.9.2 Deputy M.R. Higgins:**

Would the Minister not accept that it is rather strange that a document, namely a threatening letter that was supposed to be threatening their lives, was not acted on immediately by some of the parties and, in fact, the letters were passed around a number of members of the lawyer's firm, thereby putting multiple fingerprints and thus muddying the evidence?

**Senator B.I. Le Marquand:**

That is not within my knowledge.

**4.9.3 Deputy J.A. Hilton:**

In a previous answer the Minister told Members that nobody was spoken to under caution. Was anybody spoken to at all in relation to this alleged offence?

**Senator B.I. Le Marquand:**

I think that is why I started off by saying that the victims had been spoken to.

**4.9.4 Deputy M. Tadier:**

It is not clear who the victims were in this case. Could the Minister identify whether he means recipients? There will be parties in this who perceive themselves to be victims without necessarily being perceived as that by the Minister. That is why I asked for clarification.

[11:00]

**Senator B.I. Le Marquand:**

I thought I defined that most carefully because I started off by saying “all 4 recipients of letters” and then referred to them later as “victims”.

**4.10 Deputy J.H. Young of the Attorney General regarding the circumstances under which suspected infractions should or should not be referred for prosecution:**

Will the Attorney General advise the Assembly whether he ensures that States departments with delegated regulatory authority, such as Planning and Harbours, comply with his guidance issued in January 2008 regarding the circumstances under which suspected infractions should or should not be referred for prosecution, whether the departmental referrals are monitored for compliance and what action, if any, is taken if it is considered there is non-compliance or lack of consistency?

**Mr. T.J. Le Cocq Q.C., H.M. Attorney General:**

I receive a detailed quarterly report from Environment Protection on all investigations into States departments but do not otherwise formally monitor compliance with the Guidance Notes of January 2008 or indeed whether other investigative bodies, such as the States of Jersey Police, apply an appropriate threshold to each matter before referring it to me for a prosecution decision. It would be impractical to examine each file and to do so would make any guidance unnecessary, as all matters would then, in effect, be examined by my department and any discretion removed from the investigatory authority. I presume, unless informed to the contrary, that every investigatory body discharges its functions under the law and applies the guidance which provides expressly that any doubt should be referred to me. When a matter is referred to the Law Officers, it is considered by a lawyer within our department to decide whether or not a prosecution should be brought. Such matters are therefore automatically reviewed and supervised. As for matters not referred to my department, it is open to a person to complain to me if, in that person’s opinion, the matter should have been referred. In those circumstances, I would call for a report from the regulatory authority and would then review it to determine whether the correct tests had been applied at each stage.

**4.10.1 Deputy J.H. Young:**

I thank the Attorney General for a very comprehensive answer. The last point that the Attorney General made there, that there is an opportunity for a person to complain, to have the Attorney General review the file for compliance, could he elaborate on that to say whether that is open for a person to go direct to him or is there some procedure where they have to go through the department first?

**The Attorney General:**

There is no formal procedure but, of course, prosecution decisions are taken exclusively, ultimately, by those within my department. It would therefore be open to someone, for example, who has made a complaint to a regulatory authority, where that complaint has been investigated and nothing has happened, if that individual feels that this is a matter that should have been referred to the Law Officers, there is no reason why that individual cannot come directly to the Law Officers and say: “There is such a matter and it should have been referred to you.” In those circumstances I would be alerted as to an issue and I would call for the report that I have mentioned.

**4.10.2 Deputy M.R. Higgins:**

I think the Attorney General is going to get a number of people coming to him in the near future with concerns about the prosecution process and in fact I will be coming to him with some myself.

I do not know if the Law Officers' Department are the fall guy and are being accused of making the decisions or the decisions are being made by others, but there is serious concern in a number of areas about prosecution decisions and whether cases have been brought against the right people or for the rights reasons.

**The Bailiff:**

What is the question, Deputy?

**Deputy M.R. Higgins:**

Will the Attorney General see me as soon as possible and I will tell him my concerns?

**The Attorney General:**

I would be entirely delighted to see the Deputy at a mutually convenient time.

**The Bailiff:**

Senator Ferguson, I trust you have a question. **[Laughter]**

**4.10.3 Senator S.C. Ferguson:**

Yes. I suppose I am reflecting the comments made by other Members of this Assembly and just to confirm: should the delegated authority to these regulatory personnel be exerting their authority in a rather unseemly and totally obnoxious manner, can we come and complain to the Attorney General?

**The Attorney General:**

No. The point that I was making was that ultimately a prosecution decision rests within my department and within no other department. If it is felt that a prosecution decision should not have been made, that is a matter for my department because, ultimately, it will be taken through the courts by my department and that file would have been reviewed by officers within my department. If it is that something should not have happened or should have happened that did not happen then that can be brought to my attention in the context of my obligation to supervise the prosecution process for criminal infractions. General complaints about behaviour, however, seem to me to fall outside of that process and general complaints about behaviour should be made in the normal way, I suspect, under the Civil Service Code.

**4.10.4 Senator S.C. Ferguson:**

Yes, but if it is in the course of their duty, performing those duties which have been delegated by the Law Officers to these particular individuals if they are dressed with a little brief authority, would that not be a case for taking away that little brief authority?

**The Attorney General:**

If the actions of any officials charged with investigations under the law impinge upon the investigatory process to the extent that it is prejudicial to any decision that my department might ultimately make, clearly that would be a matter for me and to take up with me. If it is simply a behavioural matter, I have no more supervision over people within the investigatory departments than I do over officers in the States of Jersey Police.

**4.10.5 Deputy J.H. Young:**

I thank the Attorney General for giving us an insight into the subject. I think he is likely to be very busy with people complaining. Does the Attorney General, on reflection, not think that there is

merit in considering some sort of monitoring process systematically across those departments that have these very strong powers and are referring cases to him regularly to ensure that the guidelines, which are very important, are properly adhered to and departments do not overstep the line into practices which are very questionable at least?

**The Attorney General:**

I am very happy to consider the possibility of an enhanced supervisory process to deal with those kinds of matters, but I prefer to do so on the basis of matters that are raised with me and evidence that is put before me. If people come along and explain what difficulties they have then I will obviously consider whether the process should be changed in order to address those difficulties, but without that information I do not see any basis for doing so at the moment.

**4.11 Deputy R.G. Le Hérissier of the Minister for Treasury and Resources regarding the J.T. Gigabit project:**

Would the Minister, as the shareholder representative, confirm that the Gigabit project of J.T. (Jersey Telecom) is meeting its installation and financial targets and that, when completed, it will come within budget?

**Senator P.F.C. Ozouf (The Minister for Treasury and Resources):**

I am pleased to report that at my regular update with the J.T. Board I was advised that the Gigabit programme is meeting its installation and financial targets and is on schedule to be within the budget of £41.5 million when it completes in 2016. This information has not changed since, I am advised, on 24 January - just 3 weeks ago - Deputy Le Hérissier took up J.T.'s offer of a tour of its facilities and had the opportunity to hear first-hand about the experience of the manner in which the programme is being delivered and the progress J.T. is making against its commitments.

**4.11.1 Deputy R.G. Le Hérissier:**

Yes, Deputy Baudains and I were received and looked at all the call centres as well and we must thank J.T. That being the case, I wonder if the Minister could outline to the House, in terms of risk analysis, where does he think the major risks lie in the project?

**Senator P.F.C. Ozouf:**

Risk mitigation and risk is one of the major issues that the Treasury considers in all of the entities that we deal with. I think it is fair to say that we have passed the major risk issues for the Gigabit programme. The major issue was the third party contractor which did not perform. That has been a matter which has been debated and rehearsed in this Assembly on a number of occasions. I am now satisfied and we do receive a quarterly report from J.T. which sets out all of their progress and I hope that they continue to keep on track with what is going to be the programme in the rollout. Perhaps St. Helier may be the biggest risk because it is more complicated to connect.

**4.11.2 Senator S.C. Ferguson:**

Could the Minister confirm how many subscribers are now connected to the fibre in their homes?

**Senator P.F.C. Ozouf:**

The last number that I have, which is the report from Q3, was 6,581 premises at the end of 2013. I will not make up a number. I will come back to Senator Ferguson with a number, but they have in fact been exceeding their targets for January already.

#### **4.11.3 Deputy R.G. Le Hérissier:**

Is the Minister happy, wearing his other hat, that the decision to proceed with the rural areas and not to place the carbon fibre in St. Helier first and thus service business, was a wise decision given all the problems that have occurred with ducts and buried cables and broken cables, *et cetera*?

#### **Senator P.F.C. Ozouf:**

I have challenged J.T. on this and I think that a number of Members perhaps in the rural areas of the Island would warmly welcome the fact as those areas are the areas that have the very worst internet speed so, in fact, it is the concentration of improving the areas with the worst internet that have gone first. The counter argument, of course, is the concentration of businesses and other residents in St. Helier. J.T. are very aware of these issues but I am confident that they have targeted and rolled-out the programme in the best way and the more they become experienced in dealing with the connection of homes, also the better that they are going to be in dealing with what is a much more concentrated area in St. Helier.

#### **4.12 Deputy M.R. Higgins of the Minister for Health and Social Services regarding the Department's recruitment and selection process:**

Will the Minister explain to Members how the department's recruitment and selection process ensures that the doctors, psychiatrists, psychologists and consultants employed in the Island are skilled and experienced to a high standard?

#### **The Deputy of Trinity (The Minister for Health and Social Services):**

The successful recruitment of appropriately qualified and skilled staff is crucial to the delivery of high quality of services and, most importantly, the safety of patients and clients we care for. Consultants, including psychiatrists, are subject to an extremely rigorous process before appointment. Jersey has always applied the relevant recruitment techniques required by U.K. statute. Since 2012, this process has been further improved, enhanced and independently validated. By benchmarking with some of the highest performing and most distinguished hospitals, our current recruitment and selection framework compares with the very best in the U.K. This process includes enhanced reference checking, psychometric tests, additional pre-interview selection activities and evidence of the doctor's revalidation status. This framework also now directly involves very senior States of Jersey staff with an expert and experienced Health Services background. Clinical psychologists are not medical staff and not governed by the same statutory framework. The recruitment of clinical psychologists is subject to the robust and rigorous procedure set out in the States of Jersey Civil Service Recruitment and Selection processes.

#### **4.12.1 Deputy M.R. Higgins:**

They are fine words and reassurance but the department's record in the last few years has been absolutely appalling and I do not know how anyone can accept anything that comes out of the department in that way. In recent years, we have had a psychologist who was concerned with children who made serious unfounded accusations against a number of families and whose probationary period was not followed up with a formal contract. We have had a doctor who operated on a former nurse resulting in her death and she was not trained or capable of performing the operation without supervision. We just recently had a consultant gynaecologist who has been found incapable of diagnosing patients and requires further training. In light of these recent experiences, plus the complaints that are being made against the hospital services at the present

time, what confidence can people really have that what the Minister says and what the department is doing are one and the same?

**The Deputy of Trinity:**

I take great offence to what the Deputy said. **[Approbation]** We have a very good health service and I said that the recruitment process has been strengthened, and we are using more medical staff to be recruited using an Appointments Advisory Committee. In fact, that panel are representatives from the relevant Royal Colleges. Regarding doctors that are excluded, that is very important that we make sure that all our staff, wherever they are, are good in their job and that if any concerns are raised by a member of staff or the public, that they are addressed immediately.

[11:15]

**4.12.2 Deputy J.H. Young:**

Could the Minister confirm that those procedures and careful processes that she explained apply to all clinical appointments, including short-term locums?

**The Deputy of Trinity:**

Yes. I do not know about short-term locums if they are only over for a day. There is a process which has been revalidated for short-term locums but I will come back and check that. Regarding long-term locums, yes, I am sure it does but also to say that the process has been validated by the Medical Staffing Unit of the N.H.S. (National Health Service) employees and by the National Association of Medical Personnel Specialists.

**4.12.3 Senator S.C. Ferguson:**

Given the state that the National Health Service is in at the moment, is it really the appropriate source of knowhow and so on at the moment?

**The Deputy of Trinity:**

Yes. The quality of all staff is important. As I have said, we take patient safety very, very seriously and that is why a very rigorous recruitment process is put in place.

**4.12.4 Deputy M.R. Higgins:**

Could I just ask the Minister then, is she going to say to us we will not be hearing of any more complaints about doctors who are not trained, not skilled or not capable of doing the thing? She is so confident in the system that she expects that we will not be hearing of these matters again. Is that correct?

**The Deputy of Trinity:**

Nobody in any hospital or any medical profession can give that guarantee. I think Deputy Higgins sometimes lives in a very difficult world because he thinks the worst of everybody. Our doctors are very good. They go through a proper recruitment process and they do a difficult job and they are well supervised and they take all concerns and all complaints very, very seriously.

**Deputy M. Tadier:**

Can I raise a point of order? I believe there is a Standing Order that says Members should not impute false or improper motives and to say that a Deputy or another Member of the House always thinks the worst of everyone I think falls foul of that Standing Order.

**The Bailiff:**

I do not think so. I do not think that was imputing improper motives.

**Deputy M. Tadier:**

Every Member who gets elected to the Assembly goes in with the intention of best wishes and they do not see evil wherever it may or may not occur, Sir, so I think that ...

**The Bailiff:**

The Standing Order is against imputing improper motives. I do not think that the Minister was imputing improper motives to the Deputy at all. She was just saying he has a rather bleak outlook on things. First of all, I am sure the Deputy does not agree with that but, secondly, that is not imputing improper motives. A motive is a reason for doing something.

**4.13 The Connétable of St. John of the Minister for Economic Development regarding prepayment protection for travellers contained within the Service Level Agreement between the States of Jersey and Condor:**

Within any permit or service level agreement between the States of Jersey and Condor, is there any protection for the public to cover prepayment to the shipping company for transport and travel, and if so, where are these funds held and who manages and controls them until the date of the client's travel?

**Senator A.J.H. Maclean (The Minister for Economic Development):**

As part of the ramp permit agreement between the States of Jersey and the ferry operator, Condor Ferries must publish information such as its terms and conditions of carriage in the form of a customer charter. This includes details of its operational provisions and effective management of passengers and their vehicles in the event of disruption or cancelled sailings. Therefore, there is no specific agreement with the States of Jersey with reference to refunds for delayed or cancelled sailings but the ramp permit does include the E.U. Regulation on passenger rights which Condor has agreed to adopt. If tickets are purchased through travel agents or tour operators, there are industry schemes to provide comprehensive protection. For tickets purchased directly, the monies are recoverable directly from the shipping company and assured through the solvency of that company. Therefore, prepaid tickets ticket funds are held by Condor Ferries as is the standard practice within the travel industry.

**4.13.1 The Connétable of St. John:**

Given that prepaid tickets which are purchased directly with Condor are held within the company, what safeguards are there within that company that in the event of the company going under, that that money would be returned to the clients?

**Senator A.J.H. Maclean:**

I think I made it clear that it would only be the case where somebody has purchased through cash or by cheque that there would be any particular relevance. All other purchases through travel agents and tour operators are covered by appropriate schemes and that, I must add ... and indeed credit card purchases as well which would also be covered so the vast majority are going to be perfectly well protected. Outside of that, anybody purchasing a ticket through cash or cheques would be reliant upon the solvency arrangements of the company itself.

**4.13.2 Deputy R.G. Le Hérissier:**

Following a theme I myself have been following all morning, would the Minister outline the precise circumstances where he would say the financial situation has reached such a serious state that it is now time for intervention? Would he outline those circumstances?

**Senator A.J.H. Maclean:**

I am not sure the Deputy's question is entirely clear. Is he referring to the company ceasing to be in a position to be able to operate? Is he referring to particularly the earlier discussions today around terms and conditions of staff? Could he perhaps clarify what he means by his question?

**Deputy R.G. Le Hérisier:**

I am simply referring to the situation where a company is trying its very best but there simply is not enough money in the bank to keep the normal operating aspects of a business going.

**Senator A.J.H. Maclean:**

I should make it clear first of all that there is no question with regard to Condor Ferries, that they are perfectly well capitalised. They are owned, as the Deputy will know, by Macquarie, an international organisation which certainly has the resources to ensure that the company can operate and prove to be successful. Condor is a successful profitable company. I have no reason to believe that that would not be the case long into the future. That is not the case, I might add, for many ferry operators that we have seen in recent years through the recession that have gone out of business but with Condor, they are well capitalised.

#### **4.13.3 The Connétable of St. John:**

The Minister mentioned cash or cheques could be lost in the event of a failure of the company. Would the Minister ensure that in any agreement that the States put in place with Condor and other companies that monies are held by the companies in a separate account where they were paid in by individuals by cash or cheque so, in the event of any failure, that money can be claimed back by the travelling public?

**Senator A.J.H. Maclean:**

I am very happy to take on board the concerns of the Connétable in this area and certainly raise the question. I just have to re-emphasise that this is a very, very small minority of individuals but that is not to say that it should not be considered and, as I have just given the undertaking, we will certainly consider it and see what is possible in this regard. I would also just point out that the same applies for consumers purchasing tickets with airlines, other ferry operators or virtually anything else, the same applies. Really it is for the consumer in many respects to ensure that they make their purchase through a properly protected either travel operator scheme, travel agency, or by use of a credit card scheme that has appropriate cover within it.

#### **4.13.4 The Connétable of St. John:**

Would the Minister agree with me that many people who travel once or twice a year and pay 6 months in advance will have limited means and pay by cash or cheque and therefore will he ensure that those people are protected in some way? The ordinary little man in the street I am trying to protect.

**Senator A.J.H. Maclean:**

The Connétable has raised this question for absolutely the right reasons and I have given an undertaking that we will certainly look at the matter. I was simply making the point that we believe

this to be a very, very small minority but we will certainly consider it, as he has raised it, and it is a valid point.

#### **4.14 Urgent oral question**

##### **The Bailiff:**

Very well. Then we come next to an urgent oral question for which leave has been given and that is a question from Deputy Tadier to the Minister for Home Affairs.

##### **Deputy M. Tadier of the Minister for Home Affairs regarding allegations that a former prison employee had an inappropriate relationship with a prisoner at H.M.P. La Moye:**

Would the Minister advise whether a former prison employee had an inappropriate relationship with a prisoner at H.M.P. (Her Majesty's Prison) La Moye and if so, what assurances can he give that safeguards are in place so that such illegal practice may not occur in the future?

##### **Senator B.I. Le Marquand (The Minister for Home Affairs):**

I am assuming that the question relates to matters which were alleged in a U.K. Sunday newspaper and which were referred to yesterday in a Jersey newspaper. The alleged affair set out in the newspapers is, in the views of the Prisoner Governor and myself, hard to believe - in my opinion, it is very hard to believe - and has been strongly denied by the prisoner concerned. Up until late 2009 to early 2010, because of the shortage of appropriate accommodation at the prison, drugs counsellors and chaplaincy staff and sometimes other persons did visit prisoners in their cells. The member of staff concerned was in charge of the prison's drug and alcohol counselling services and did visit the prisoner on a number of occasions. However, and I am making a general statement now, whenever such visits took place to prisoners, the doors were not locked. In fact, the lock was turned so that the doors could not be closed and in the case of the particular prisoner concerned in the articles, because he was viewed as being a high risk high security prisoner, there was always an officer detailed to monitor his activity and to regularly check on the safety of anyone who was seeing him in his cell, and it is that additional level of security frankly which makes the newspaper account very hard to believe. **[Interruption]** I was going to go on and describe changes to the system which have taken place since. From late 2009 early 2010, civilian grades stopped conducting any business in prison cells. That was because there was a lot more accommodation then available. Meetings are now held by pre-booking in interview rooms. The interview rooms have glass panels and there is C.C.T.V. (Closed Circuit Television) nearby but not in cells. This provides a much better safeguard.

##### **4.14.1 Deputy M. Tadier:**

Just because something is hard to believe does not necessarily mean it did not happen but leaving that logic aside, can the Minister advise, given the very serious nature of this allegation and the reputational damage it would have for both public confidence in Jersey and possibly outside of Jersey, surely the very minimum that we would expect is a proper review to be carried out which would, at the very least, seek to interview both parties who were alleged to have taken part in this alleged activity. Has that been done, will that be done, and if not, why not?

##### **Senator B.I. Le Marquand:**

The prisoner has strongly denied this. Frankly, I think that the allegations as set out in the press are very much in the area of fantasy and I really do not think there is any point in wasting public money and time on a review of something which appears to me to be so fantastic and unlikely.

#### **4.14.2 Senator S.C. Ferguson:**

It appears to me that there does appear to be some tightening-up on the employment procedures. What changes have there been to due diligence on the employment of staff?

#### **Senator B.I. Le Marquand:**

This particular employee was quite well known to the service, having started going into the prison from 2003 onwards. She then obtained an employment contract in 2006 and that was then varied in 2008. It appears that fresh references were not taken up in relation to later contracts. That appears to be so because the person was already well known and was reckoned to be well respected at the particular time. My own personal view in relation to that is that when there was a move to a contract of employment, there should have been strict due diligence matters. In relation to the move from 2006 to 2008, I view that essentially as a variation to contract and would not have expected that to be so. Clearly, it is very important that people who hold such posts are fully and properly vetted because of the important nature of the role that they play.

[11:30]

#### **4.14.3 Connétable M.J. Paddock of St. Ouen:**

Could the Minister advise the Assembly why the female is no longer employed at the prison?

#### **Senator B.I. Le Marquand:**

Yes, she resigned from her post in 2010.

#### **4.14.4 Deputy M. Tadier:**

The Minister seems to be saying he does not believe this because there are safeguards in place which are designed to stop this kind of thing happening but he has not addressed what happens when safeguards themselves fail for whatever reasons, either through human error or through conspiracy to pervert the internal processes of the prison. Will the Minister take this matter seriously and say that he will investigate, at least instigate an internal inquiry, at least make sure that he interviews the relevant stakeholders and also look at whether or not in the last 5 years there have been any other allegations of inappropriate relationships between prisoners? Will the Minister look at whether there have also been inappropriate relationships within the last 5 years?

#### **Senator B.I. Le Marquand:**

I am not aware of any. Because this was at very short notice, I have concentrated on the details of the particular matter but I will very happily make that inquiry.

### **5. Questions to Ministers without notice - The Minister for Health and Social Services**

#### **The Bailiff:**

Very well, so that completes questions on notice so we now come to questions to Ministers without notice and the first period is for the Minister for Health and Social Services.

#### **5.1 The Connétable of St. Mary:**

Will the Minister please advise whether the department's travel policy precludes payment for those who are participating in clinical trials and if so, why?

#### **The Deputy of Trinity (The Minister for Health and Social Services):**

Yes, it does preclude those who are in clinical trials. The reason why I cannot remember, but it does mention that on our travel policy which is for patient information which I am very happy to send to her.

#### **5.1.1 The Connétable of St. Mary:**

Does the Minister not believe that where clinical trials are supported and recommended by our respected consultants and clinicians that this is an excellent way for patients to access expensive drugs at no cost to the Island's authorities and would not the *quid pro quo* for that be to enable people to travel for these trials? My understanding is that all other off-Island expenses are covered by the cost of the trial.

#### **The Deputy of Trinity:**

I am happy to look at that.

#### **5.2 Deputy J.A. Hilton:**

On 31st January in the Magistrate's Court, it was reported in the *Jersey Evening Post* that an individual was convicted of committing a grave and criminal assault on a woman at a local care home. Can the Minister tell the Assembly whether this assault was on a member of staff or on a resident in care there?

#### **The Deputy of Trinity:**

The department was notified by the manager of Lakeside in November last year about the alleged assault on a resident that was carried out by a carer working at the home. The incident was reported to the home manager. She immediately informed the police and referred it to Adult Safeguarding. The member of staff was immediately suspended from duty. A disciplinary investigation was carried out by the home. The member of staff was dismissed and is no longer working in the home.

#### **5.2.1 Deputy J.A. Hilton:**

Can the Minister confirm, in light of the conviction, that this particular individual will be struck off from working in care homes in Jersey and also the relevant authorities have been notified in the U.K.?

#### **The Deputy of Trinity:**

I do not know about being struck off because if a person did go and ask for a job at any resident or nursing home, they would have to provide their C.V. (Curriculum Vitae) and on that C.V., I would expect, especially here and I would expect the same in the U.K., are any police convictions and if that they know the person over here, and as I have mentioned before in previous questions, if they are aware that he or she is working in a care home or a residential home, then we raise that awareness and, if necessary, we will put in a request for disclosure with the States of Jersey Police.

#### **5.3 Senator S.C. Ferguson:**

With regard to travel and the return of patients back from the U.K., would the Minister like to tell the Assembly what improvements there have been in the communications system so that Jersey knows when to expect patients back and they do not just arrive back and disappear into limbo?

#### **The Deputy of Trinity:**

That is a very important issue and it was raised here, as well as from other patients, and now we have much more vigorous commissioning and one of those is really putting in place what happens

when a patient is discharged. The information goes back to the G.P. (General Practitioner) but it also goes to the clinician who referred that patient to the hospital in the U.K. So it is much tighter and it is put in the Service Level Agreements that we have with hospitals in the U.K.

**5.3.1 Senator S.C. Ferguson:**

So we can be sure that when a patient comes back from the U.K., that somebody will ring up the following day and say: “Are you back? Are you okay? Do you need anything?”

**The Deputy of Trinity:**

I do not know about ringing up next day but I can check up on that policy and come back to the Senator.

**5.4 Deputy S. Pinel:**

Does the Minister accept that the potential delivery of the disability strategy in 2016 is delaying this important work for far too long?

**The Deputy of Trinity:**

Yes.

**5.4.1 Deputy S. Pinel:**

Could not the funding, estimated to be approximately £80,000, be found to progress this disability strategy sooner?

**The Deputy of Trinity:**

We have many challenges on our budget, new services, new drugs, new requests for consultants, and we all look at our business plans and it is done on a clinical basis ... is done on corporate management and they are done in a good robust procedure. I am sure that one is there and it will go through the due process but our budget is fixed for the next couple of years and we know that in the new few years in the Medium-Term Financial Plan, the cost of health services across the board is going to increase and it is going to request more funding.

**5.5 The Connétable of St. Ouen:**

Could the Minister advise the Assembly are all the care homes in the Island checked and how frequently this is done?

**The Deputy of Trinity:**

Yes all the residential care homes are registered with the department. There is a regulation and inspection arm of the department. They are checked at least once a year routinely and they are informed that they are checked and that they also go in unannounced. If there is any concern raised in between visits or any complaint that comes through or any concern at all, they will do more frequent visits.

**5.6 The Connétable of St. Lawrence:**

How many consultant posts, if any, are currently vacant?

**The Deputy of Trinity:**

None that I am aware of.

**5.7 Deputy T.A. Vallois:**

In our ever fast-moving world and the comments made by the current Hospital Director, could the Minister advise what the budget currently is for information computer technology in the Health and Social Services Department and whether the Health Service has an I.T. (Information Technology) health strategy in place to deliver that going forward?

**The Deputy of Trinity:**

When the Hospital Director spoke to the Institute of Directors last week, one of the questions was asked about the I.T., and going forward it is going to be an important part of the new hospital. We just have to look at the cardiologist on the *J.E.P. (Jersey Evening Post)* on Saturday night. Regarding the budget with the new hospital, I have not got that information. I think that is still being worked up as we go into the feasibility stage.

**5.7.1 Deputy T.A. Vallois:**

Can the Minister advise whether she is confident that the £12 million we have already spent on I.T. infrastructure in the health system is somewhat a way to improve on the I.T. system or whether there is still a significant amount to come?

**The Deputy of Trinity:**

The £12 million has been a significant investment and has proved very, very effective with the TrakCare coming online and Order Comms coming online. There is still more to do because the next stage, A. and E. (Accident and Emergency) and Maternity, as I understand it, have got electronic patient records and that is the next stage that we need to go to so we become paperless. Is more needed to be invested? Yes, because we are working in a digital world and we are working with Digital Jersey into looking at these different issues.

**5.8 Deputy R.G. Le Hérissier:**

When will the Minister be bringing forward proposals currently under consideration as to the future of G.P. services in the Island?

**The Deputy of Trinity:**

Yes, that is a challenge. We have been working with the G.P.s over the last year and it has been a challenge but we have, over the last couple of months especially, worked very well with them in finding a way forward. This process is being negotiated, worked with at this present time and hopefully some more positive steps forward will happen in the next month to 6 weeks' time.

**5.8.1 Deputy R.G. Le Hérissier:**

So more precisely, could the Minister tell us what structured G.P. services her department is proposing or promoting?

**The Deputy of Trinity:**

We have not got to that stage yet because we are still working out a design for the right model and working with the G.P.s on how there is a sustainable way forward for Health and Social Services, for the G.P.s, but more importantly for the people of Jersey.

**5.9 Deputy J.A. Hilton:**

The Health, Social Security and Housing Scrutiny Panel are currently undertaking a review into the Child and Adolescent Mental Health Service and during the recent public hearing with the Detective Superintendent with responsibility for such matters, he said it would benefit the police to have access to the Child and Adolescent Mental Health Service staff 24 hours a day to assist those

young people held in custody. He said that it would not be an unreasonable expectation. Will the Minister consider this statement with a view to introducing such cover as soon as possible?

**The Deputy of Trinity:**

I hear what the Deputy said and I look forward to very much with their review and having not heard what the police inspector said, it is very difficult to comment on. I also say that if a young person is admitted into A. and E., they have access to mental health services and if they need admission over the weekend, because if they do admissions over the weekend it is for emergency and they have access to mental health workers there. But I await the Scrutiny Panel's review and I shall look at the police inspector's comments.

**5.9.1 Deputy J.A. Hilton:**

The question was in relation to young people being detained at Police Headquarters. During the review, the Detective Superintendent said that it was an unsuitable place to detain young people but it would have been of benefit if they could have had access to C.A.M.H.S. (Child and Adolescent Mental Health Services) staff so it was not about being detained at A. and E. It is due to be being detained at Police Headquarters and the benefit of having C.A.M.H.S. staff available 24/7.

**The Deputy of Trinity:**

In that case, having a young person detained at Police Headquarters is definitely not the right place because of the conditions and the need for a new Police Headquarters, and it is not the right environment either. Again, I shall look at the inspector's comments and take it from there.

[11:45]

**5.10 Deputy M. Tadier:**

Can the Minister give us an update on her plans to inspect owner-occupied homes ostensibly on the ground of health reasons?

**The Deputy of Trinity:**

That is the Housing Dwelling Law, I take it? Yes? Yes, it is out to consultation and, suffice to say, it was very wide from people who thought that the department should not be doing this to people who thought that they should be doing that. At the moment, a report is being produced. Whether it is progressed within the next 6 months or so, I cannot guarantee that.

**5.10.1 Deputy M. Tadier:**

To avoid any duplication of work that may be concurrently going on with the Housing Department in respect to establishing minimum standards, what assurance can the Minister give us that both departments are working together so that there is no duplication?

**The Deputy of Trinity:**

The Environmental Health Department works very closely with Housing and indeed is there to offer anybody any help and support that is required to make sure that their house/flat, whatever, is appropriate for them to live in. That does not stop. That happens every single day of the week and anybody can access the Environmental Health Department for advice and support.

**6. Questions to Ministers without notice - The Chief Minister**

**The Bailiff:**

Very well. I am afraid that brings questions to the Minister to a close so we now move on to questions to the Chief Minister.

**6.1 The Connétable of St. Lawrence:**

Will the Chief Minister advise the Assembly how many items of legislation will be lodged for debate before the end of this session?

**Senator I.J. Gorst (The Chief Minister):**

I do not have the actual number in front of me. As the Connétable will know, there are a number of pieces of legislation which are nearing completion and ready for lodging and we had quite a long discussion at the Corporate Services Scrutiny Panel about it, but certainly I think it was intended that the note of the proposed legislation will be issued to the Scrutiny Panel and I can ensure that that is done.

**6.1.1 The Connétable of St. Lawrence:**

I wonder if that information could be passed to all Members so that they are aware of exactly what to expect, the work that will be needed before the end of the session. That is my question to the Chief Minister.

**Senator I.J. Gorst:**

I have got no problem with that. There are no surprises but there are lots of pieces of work which need to be brought to completion, I hope, before the end of this parliamentary term.

**6.2 Deputy G.P. Southern:**

Could the Chief Minister state why in his report accompanying the Interim Population Policy there is no mention whatsoever of the Jersey Household Projections 2013 release, which was available at the time, and indicates serious demand from his solution to population for housing in the Island?

**Senator I.J. Gorst:**

The Deputy seems to keep wishing to bring together long-term population issues with short-term population issues and he has done that in a number of questions today. The Interim Population Policy is for a number of – 2 - years, allowing that limited number of migration for 2 years. As he well knows, housing qualifications and therefore ability to buy are not developed and not granted within a 2-year period.

**6.2.1 Deputy G.P. Southern:**

Does the Minister not accept then that by 2016, in the very short term, as a consequence of his proposed policy, population will breach the 100,000 mark which is still the target to end up at 102,000 approximately?

**Senator I.J. Gorst:**

Members will be aware that the Deputy himself has lodged an amendment to the Interim Population Policy this morning and I could say the same with regard to his amendment.

**6.3 Deputy S. Pinel:**

As Members will probably be aware, I am not a fan of repetition. However, I will ask the same question of the Chief Minister as his department is responsible for the Charities Law. Does the Chief Minister accept that the delivery of a disability strategy in 2016 is delaying this important

piece of work for too long and could not the funding estimated to be approximately £80,000 not be found to progress a disability strategy sooner?

**Senator I.J. Gorst:**

Yes, I do and, as the Minister for Health and Social Security indicated, there is political support for bringing forward this matter. She was right to raise the constraints on her budget and she is right in saying that her budget is limited and it would be difficult for her to fund this. I spoke with my Assistant Minister about this only yesterday afternoon and we agreed that it is important to bring it forward and make sure it is brought forward in a timely manner and I and he instructed our officers to make sure that they could find the funding from within the existing central policy in the budget to bring this work forward and my Assistant Minister will be writing to relevant - I use the term "third sector": I know it is not used any more - representatives to inform them of this fact.

**6.4 Deputy M. Tadier:**

Will the Chief Minister advise whether his department had any involvement or contact with Google and their decision to take down former Senator Syvret's blog site?

**Senator I.J. Gorst:**

As I understand it, that action arose directly from the judgment of the court and actions arising from that, not from my department.

**6.4.1 Deputy M. Tadier:**

Is the Chief Minister aware that the reasons given for the taking down of the site were due to defamation yet the court case was to do with data protection and in his role as Chief Minister with an overarching responsibility for the Island and its welfare, does he agree that freedom of expression is something which is very important and this is something which any advocates of freedom of expression should be concerned about?

**Senator I.J. Gorst:**

Freedom of expression is important and I do not wish to tread on to legal interpretation of that, particularly in relation to the European Convention on Human Rights, but the Deputy should be aware, and I am sure is aware, that Google themselves have a policy around the using of its facility blogger, which is its blogging software, around bullying and harassment.

**6.5 Deputy J.A. Hilton:**

I wish to ask the Chief Minister a question around the shortage of social housing really as a follow-on from a question this morning. Does the Chief Minister believe that in light of the fact that we have 700 families currently waiting for homes, that really we should be doing more on the Jersey College for Girls' site? From my reckoning - I have done a quick reckoning on the figures - and I think there is a shortfall of at least between 100 and 150 homes in the next 4 or 5 years taking into consideration all the sites that have been put forward and I want to know whether the Chief Minister believes that is acceptable when we have a site which is in States ownership and waiting to go. So I would like to know what he thinks about that and whether he will take it back and they will look at the figures again with regard to social housing on the Girls' College site.

**Senator I.J. Gorst:**

I do not think I have got anything to add to the answer that the Assistant Minister for Treasury and Resources gave earlier. We have already looked at it again to see if we could increase the provision of social housing on that site. These sites have got to be taken in the round, as the Assistant

Minister said. The Minister for Housing is also looking at increasing density on other States-owned sites as well and that is why also when we come to the debate to the amendment to the Island Plan, it is important that this Assembly accepts those amendments so that we can provide for the demand.

#### **6.5.1 Deputy J.A. Hilton:**

Can the Chief Minister say why they will not increase the amount of social housing on the Girls' College site? I want to know why.

#### **Senator I.J. Gorst:**

I do not have all the details in front of me but I am sure that we can provide those to the Deputy. If I recall correctly, and it is a number of weeks if not months since I last considered this, we have already increased it from the initial intention anyway because we were concerned, as she was concerned, about the provision of social housing but we are quite happy to provide the details to her.

#### **Deputy J.A. Hilton:**

I would suggest the reason it has not been increased is because it does not wash its face financially and basically ...

#### **The Bailiff:**

Deputy, you have asked 2 and you are not really free to make a statement.

#### **Senator I.J. Gorst:**

Sir, if I could just clarify. As I said, it has been increased.

#### **6.6 Deputy T.A. Vallois:**

Could the Chief Minister advise the Assembly what his intentions would be should P.P.C. (Privileges and Procedures Committee) decide not to bring forward changes to the Machinery of Government that is due to come forward before the end of this session?

#### **Senator I.J. Gorst:**

I would hope that P.P.C. would bring it forward. It would seem slightly strange. P.P.C. initiated and set up the Machinery of Government sub-group. They, as far as I am aware, accepted those proposals. They proposed an in-committee debate and even went as far as to set up an Oversight Group to ensure that they were brought forward and brought to this Assembly for consideration so I would expect that P.P.C. would do just that.

#### **Deputy T.A. Vallois:**

But my question was if they were not to bring something forward, what would his intentions be?

#### **Senator I.J. Gorst:**

I hope that they would. This has been a joint approach. We have developed it together, as the President knows, and it is important that we leave behind this term of office a better more effective and efficient system of government, and that is what those changes, I believe, deliver. If P.P.C. decides they are not going to bring them forward, although I see no reason why they should not, considering they accepted them only some short months ago, then I would have to consider as Chief Minister whether I would bring them forward.

#### **6.7 Deputy M.R. Higgins:**

Following on from Deputy Tadier's question, can the Chief Minister give assurances that no States department has been involved in trying to shut down Senator Syvret's blog because the evidence is that it goes back to 2008, well before the recent court cases, and also well before any sort of charges or court cases were brought against him. Can the Chief Minister give assurances that no States department, and if he has knowledge of the Law Officers' Department and others as well, has been involved in trying to shut down the blog since 2008?

**Senator I.J. Gorst:**

I cannot speak of the history since 2008 because I have not been involved directly since that time. If by reference to States departments the Deputy might be referring to the Law Officers' Department or the Data Protection Section, then I suspect that they have been involved, although I cannot absolutely confirm that.

**6.7.1 Deputy M.R. Higgins:**

Can the Chief Minister give an undertaking to the Assembly that he will ask departments if they have had any involvement and publish the information so that all Members can be aware of what they did and when?

**Senator I.J. Gorst:**

The judgment of the court is quite clear and I have referred to it on many occasions, and it is straightforward and actions have arisen from that court judgment. I do not think there is any need to go over that ground again and publish timelines. The court has considered the issue. They have made their findings very clear and other actions have arisen from that judgment.

**Deputy M.R. Higgins:**

The Chief Minister, I think, is obscuring the situation. I asked from 2008 which predates the court actions and predates any court orders and so on. I would like to know if there is an attempt to try and muzzle free speech in this Island by civil servants and it has been going on, we know it has, since 2008.

**Senator I.J. Gorst:**

I am not sure why the Deputy wishes that information. I have made it quite clear Google themselves have a code of practice for bullying and harassment and they are the ones that, as I understand it, taken down this particular website.

**6.8 Senator L.J. Farnham:**

Following Senator Ozouf's trip to New Jersey, I wonder if the Chief Minister thinks the ties with New Jersey are indeed valuable to the Island and whether he considers developing those links is a worthwhile cause.

**Senator I.J. Gorst:**

Can I start by thanking Senator Ozouf for taking the trip at his own expense and in his own vacation time? **[Approbation]** I could not agree more with the thrust of the questioner. I think that these are extremely valuable links. It is important that we build relationships with all G20 countries of which obviously the U.S.A. (United States of America) is a very important international country and we should build on those relationships. I believe that this 350th anniversary gives a very important event upon which we can build those relationships and, as you well know, it was the subject of a meeting and discussion earlier this morning and officers will be going away to develop a programme of activity which I hope will involve both further visits to New

Jersey and visits from New Jersey to Jersey. It is important that we acknowledge and celebrate our past because it will help us to consider our future.

[12:00

**6.9 Deputy M. Tadier:**

Can the Chief Minister tell the Assembly that he has been made aware that P.P.C. no longer supports the key recommendations that are found within the Machinery of Government Review and also acknowledge the fact that the Machinery of Government Review report was substantially cherry-picked and therefore the position cannot simply be expected to be rubberstamped by the committee?

**Senator I.J. Gorst:**

I wonder if the Deputy Chairman of P.P.C. is trying to tell me something across the floor of this Assembly. I am not aware of what he has just indicated to me. Perhaps he would like to inform the Assembly that that is the position that P.P.C. have now taken despite the fact that only some weeks ago they approved those recommendations and they brought them to this Assembly for an in-committee debate so that we could then go away and give effect to them.

**6.9.1 Deputy M. Tadier:**

I understood that the move to Ministerial system was supposed to enhance and speed up communications between panels and the Ministerial side. That does not seem to be the case. I was genuinely asking because I thought the Chief Minister was aware and abreast of current local events. This does not seem to be the case so I will simply wait for the cogs of the wheel to turn and I am sure that the relevant information will be brought out publicly shortly.

**Senator I.J. Gorst:**

I can only assume then that this is a reversion back to the old committee system approach. The committee meets and nobody quite knows what it has decided.

**6.10 Deputy G.P. Southern:**

On the basis that Back-Benchers ask questions and that Chief Ministers answer them, will the Chief Minister attempt an answer instead of the facetious one he gave earlier as to why there is no mention of the Jersey Household Projections 2013 in the 2014 proposals for population?

**Senator I.J. Gorst:**

It was not the answer of the type indicated by the Deputy. It was a serious answer. We are talking about an interim population policy and the Deputy is trying to deliver the long-term policy in the interim and this is the very reason why the Council of Ministers brought forward an interim population policy so that the concerns that the Deputy rightly raises, the long-term issues, are considered in an appropriate fashion.

**Deputy G.P. Southern:**

Why is there no mention of the household projections, a vital factor in population, in the Chief Minister's population report? Why not?

**Senator I.J. Gorst:**

I indicated that in my earlier answer with regard to the 2-year period and that is not a period in which one is granted the right to purchase within our community.

## **STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

### **7. The Minister for Treasury and Resources - statement regarding the proposed development of the Esplanade Quarter**

#### **The Bailiff:**

Very well. That brings questions without notice to the Chief Minister to an end. There are no matters under J so we come to K, Statements on a Matter of Official Responsibility and the Minister for Treasury and Resources will make a statement regarding the proposed development of the Esplanade Quarter.

#### **7.1 Senator P.F.C. Ozouf (The Minister for Treasury and Resources):**

Members will be aware that Senator Breckon has lodged P.15/2014 - Esplanade Quarter Developments: approval by the States. Without wanting to rehearse the arguments for that debate, I thought it was important to make a statement to Members as to what is likely to happen between now and the scheduled debate for 18th March. The proposition requests that the Minister for Treasury and Resources directs S.o.J.D.C. under Article 22(a) of the Articles of Association which reads: "If the Minister shall, in his discretion, be of the opinion that a matter of material public interest has arisen and it is appropriate to do so, the Minister shall be entitled by notice in writing to give the Directors directions to refrain from doing a particular thing or to do a particular thing which the Directors have power to do and the Directors shall be bound to comply with any such direction." The proposition requests that none of the new developments proposed for the Esplanade Quarter progress until they are endorsed by this Assembly. Since the proposition has been lodged, we have worked quickly to ensure that Members are fully informed of Esplanade Square developments. A detailed comment has this morning been presented and yesterday a presentation was given by S.o.J.D.C. which I am grateful that over 20 Members attended. The States Assembly on 13th October 2010 approved P.73/2010 - the establishment of the States of Jersey Development Company - and that stated that the prime purpose of the States of Jersey Development Company is to act as the delivery vehicle for property development for the States of Jersey. Carefully considered and detailed risk mitigations together with new governance arrangements with devolved political responsibility for S.o.J.D.C. were put in place. The proposition also created and approved the Regeneration Steering Group comprising the Chief Minister, the Minister for Treasury and Resources, the Minister for Economic Development, the Minister for Transport and Technical Services and a political representative for the Parish of St. Helier. One of the key roles of the R.S.G. (Regeneration Steering Group) was to ensure that the interests of the public are protected throughout the promotion, commissioning and implementation stages of each project as it steers S.o.J.D.C. and receives regular progress updates from the company in respect of specific sites. The R.S.G. meets S.o.J.D.C. on a quarterly basis and has approved its progress on the J.I.F.C. (Jersey International Finance Centre) and the former J.C.G. developments. In addition to these quarterly briefings with the R.S.G. and quarterly meetings with the Minister for Treasury and Resources, since its formation, S.o.J.D.C. has invited all States Members to presentations on its progress approximately every 6 months, ending these presentations with questions and answers. I hope Members would agree that they have been regularly informed and briefed on the development of Esplanade Square. Needless to say, there is commercially sensitive information which is considered and fully approved by the S.o.J.D.C. board, including its non-executive directors who form the majority of the board and who have extensive relevant experience. Needless to say, developments could be worth millions of pounds of value to the public who ultimately own

S.o.J.D.C. and similar amounts are likely to be at stake for the parties involved in competing schemes. S.o.J.D.C. is delivering the Esplanade Quarter Masterplan in a phased approach which is not only compliant from a planning perspective but also in line with the risk mitigation measures contained in the company's Memorandum of Understanding with the Treasury. S.o.J.D.C. is acting strictly in accordance with its remit and that has been set down by the States Assembly. A number of decisions concerning Esplanade Square requiring Treasury Ministerial approval have already been made and are published. The reason why this matters and is urgent is that the Jersey International Financial Centre is a strategically important project for the Island. It will provide the finance industry with high quality office accommodation in an identifiable district. The McKinsey report identified the importance of quality infrastructure and currently there is no Grade A office accommodation available on the Island. Furthermore, jurisdictions that have invested in a dedicated district for financial services have experienced positive business flows as a result. The J.I.F.C. could provide immediate economic stimulus for the local construction industry. Post completion of the J.I.F.C. development, it is estimated to generate net receipts totalling £40 million which are designated to be used to assist with the funding of lowering La Route de la Libération. In addition to this financial receipt, the phase of the development will deliver at no cost to the States a new 520-space underground car park earlier than previously envisaged and extensive new areas of public realm, a public park and a new public square and the regeneration of the adjoining Esplanade. Subject to S.o.J.D.C. securing the necessary pre-lets, construction work could commence at the end of April of this year. Delaying decisions now is likely to impact upon the project's completion date and I am advised would likely result in S.o.J.D.C. being unable to compete for certain tenants' requirements. I am concerned that delaying decisions would be against the public interest and could deprive the public of a commercial return on what is effectively commercial land. I am more than happy, together with the board of S.o.J.D.C., to continue to brief Members on the development of Esplanade Square and we will continue to be as open with Members while being sensitive to confidential commercial information. It may well be that Senator Breckon now has sufficient information and would consider withdrawing his proposition with the additional information provided as a result of the lodging of his propositions. As Members will be currently aware, developers and landowners are currently competing for the future space requirements of key tenants. It would be inappropriate and not in the public interest for the Treasury to direct S.o.J.D.C. not to continue to discharge their remit pending the debate on P.15/2014 and I am willing to engage in further discussions with Senator Breckon and others if that would be helpful.

**The Bailiff:**

There is a limited question time available. Deputy Bryans?

**7.1.1 Deputy R.G. Bryans of St. Helier:**

Could the Minister, for the benefit of Members who could not attend yesterday, and without naming names articulate his concerns about an appeal lodged by a competing developer for the area of development of the international financial sector on the Waterfront because I do not believe the import of this appeal was fully understood or appreciated?

**Senator P.F.C. Ozouf:**

S.o.J.D.C. at the meeting yesterday did advise that an appeal had been lodged in respect of the Esplanade Square office development or indeed one of the offices, which is one of the key issues which is requiring a tenant development. I am advised that that was an appeal lodged by the only other competitor to this particular tenant's requirements but I understand that the appeal may well

have been withdrawn and I have to say I welcome that as certainly S.o.J.D.C. would never - if I was to be told of it but I know they would not do it - put an appeal against a competing competitor scheme. That would be entirely wrong. It must surely be right that the tenant themselves decides which scheme they want to go with and not be frustrated through an appeal process.

#### **7.1.2 Deputy G.P. Southern:**

Since the Minister is now basing his decisions on the McKinsey report, will he agree to publish the McKinsey report, albeit in a redacted form?

#### **Senator P.F.C. Ozouf:**

Yes. The Chief Minister and I have been finishing, together with Economic Development, a new financial framework for the financial services industry which will effectively bring together the McKinsey report recommendations but will not reveal some of the confidential issues of the strategy for various different sectors of the financial services industry which, of course, competitors would want to know about. But the answer is yes, in a redacted form. Effectively the recommendations will be included in the financial framework.

#### **Deputy G.P. Southern:**

That is not quite the same as the report. Will you consider publishing the report in a redacted form?

#### **Senator P.F.C. Ozouf:**

I do not think that arises out of this statement. Those remain and I stand by the previous comment that I have made.

#### **7.1.3 The Connétable of St. Helier:**

The Minister will know that since losing a debate in the Assembly of a similar type to Senator Breckon's I have pledged my support to the scheme and I have done it with a number of conditions, including that there should be no significant retail or hospitality offerings within the J.I.F.C. I have recently heard from the Managing Director that there will be a restaurant on the ground floor of the office Building 2 of 3,000 square feet and on the ground floor of Number 6 a gastro pub of 3,000 square feet. I would ask the Minister if he is willing to talk to the Jersey Development Company about the importance of not sucking business away from either the Waterfront or the heart of town by providing retail and hospitality in the new financial services quarter.

#### **Senator P.F.C. Ozouf:**

Yes, of course. Indeed the Constable himself is a member of the Regeneration Steering Group so we have the forum in order to do that. Esplanade Square is designed to do exactly the opposite of what many people fear, it is to bring life to town, enhance the commercial offering of St. Helier and to get more footfall in the traditional areas and also achieve ambitions of regenerating the town. So, yes, of course I will take up those concerns with him.

#### **7.1.4 Senator S.C. Ferguson:**

The Minister is extremely bullish about this major project, will he confirm to this Assembly that he is quite confident that the project will come in at a profit and there will be no further demand on the States of Jersey for further money, apart from the £13 million that the Currency Fund has lent to the project?

#### **Senator P.F.C. Ozouf:**

The Currency Fund money is being funded to bring forward the early completion of the car park and will be repaid. I am not only confident that there is not going to be any liability, but in the event Esplanade Square and S.o.J.D.C. going ahead with some anchor tenants it is going to provide tens of millions of pounds of potential benefit to the Island.

**Senator S.C. Ferguson:**

Can he quantify the tens of millions?

**Senator P.F.C. Ozouf:**

I have already answered those questions in previous times and the numbers of course change depending on how successful the scheme is, but the scheme will be net positive, as repeated on a number of occasions, and as I know the Senator asked yesterday at the briefing with States Members.

[12:15]

**7.1.5 Deputy M. Tadier:**

The Minister talked about in his opinion that it is not in the public interest to contact S.o.J.D.C. to ask them not to continue to discharge their remit, but does he agree that ultimately it is for the States Assembly to decide what is in the public interest and therefore to direct S.o.J.D.C. accordingly, not simply for one Member of this Assembly, who may necessarily be an important member and the Minister for Treasury and Resources?

**Senator P.F.C. Ozouf:**

Of course it is a matter for this Assembly. The purpose of this statement is to inform Members in an open and transparent way and to be subjected to questions. Under some circumstances when a proposition is lodged one would put matters on hold. Because of the sensitivity and because of the fast-moving situation with the number of contracts that would be concluded with Esplanade Square, then I do not judge that it is appropriate to direct them at this stage. Ultimately, of course, when we come to the debate then it is a matter for Members, of course it is.

**7.1.6 Deputy M. Tadier:**

Supplementary? By not putting it on hold, does that not send out the message that we are expecting this Assembly, he is expecting this Assembly, to rubberstamp the decision and to reject Senator Breckon's proposition?

**Senator P.F.C. Ozouf:**

I hope that Senator Breckon may reflect on his proposition and that, because of the additional information, and I know he has had very constructive information - we have enjoyed some very positive discussions - he may choose to withdraw his proposition but ultimately that is a matter for him and for this Assembly to adjudicate on when it comes to 18th March. What would be wrong is to say nothing until 18th March when I am aware that decisions are being made.

**7.1.7 Deputy J.H. Young:**

Would the Minister for Treasury and Resources agree that while economic conditions require a phased approach to this development that the development does carry with it major uncertainties and therefore risk for the future implementation of the Masterplan. To help Members with this dilemma, what is the Minister for Treasury and Resources view if we only secure Buildings 1 and 4

and the underground Masterplan and no further tenants come through? What is his view about that situation and the future for the St. Helier Waterfront?

**Senator P.F.C. Ozouf:**

Without wanting to provoke Members' sensitivities, if I may say, the major risk for Esplanade Square is micromanagement by politicians. We have set up S.o.J.D.C. with delegated responsibility, with an expert board of which a number of the senior non-executives addressed Members yesterday, and we have asked them to get on with the job. Yet there are some Members that want to pull these decisions back. That is the biggest risk of S.o.J.D.C., political micromanagement. I believe passionately, and I am even more convinced than ever, about the future for Jersey as both the financial centre but also the centre for services, innovation and technology. If we do not invest and provide the kind of office space that is required we will forego opportunities. I am sure that if Esplanade Square does go ahead there are some key decisions to be made by key individuals and key tenants in the next few weeks. If those tenancies are secured then I think Esplanade Square will develop much more quickly than previous envisaged. Moreover, with the rising economic tide that is now happening we will see increased vitality and investment in Jersey which will benefit every Islander.

**7.1.8 Deputy J. H. Young:**

Supplementary? I am not sure the Minister for Treasury and Resources answered my question. Would he not accept that to balance his very bullish, his very, very passionate support for this project, it is important for Members to ask themselves as well: "What are the downside issues and what is the potential effect of that?" Is that not a reasonable question for Members to ask? Is that micromanaging or is that just being prudent?

**Senator P.F.C. Ozouf:**

It is a very good question but this Assembly delegates to individual Ministers who in turn delegate or put in place boards and structures to discharge those issues. Risk migration is at the very heart of what the Treasury does. Every Ministerial decision that I make is on the recommendation of the Treasurer. At the heart of her decision making and all of the advice that she gets from her excellent staff, is risk. Non-executives are worried about risk. So risk is not just simply the preserve of Members of this Assembly, it is happening at every stage with the delegated responsibilities.

**8.1.9 Deputy M.R. Higgins:**

The Minister for Treasury and Resources mentioned earlier that there was a legal case pending or may have been withdrawn and so on, can the Minister for Treasury and Resources tell us about Harcourt Developments and whether that is still an active case against the States of Jersey and what impact that will have on this development ...

**The Bailiff:**

I am sorry, Deputy, that is under the court at the moment so it is *sub judice* and therefore we cannot deal with it.

**Deputy M.R. Higgins:**

I have an answer, Sir, it is still active but it will have an impact possibly on this.

**The Bailiff:**

Apparently time has now run out. Very well, can I inform Members of 2 matters which are available to them. The first is comments on the Esplanade Quarter presented by the Minister for

Treasury and Resources and the second is R.18 – “Employment protection for Armed Forces Reservists: Employment Forum’s Recommendation” and Minister’s response presented by the Minister for Social Security. That brings that to an end. The next matter is a statement by the Chairman of the Corporate Services Scrutiny Panel regarding a review of the P.164.

**8. The Chairman of the Corporate Services Scrutiny Panel - statement regarding the review of P.164/2013 (Draft European Union Legislation (Implementation) (Jersey) Law 201-)**

**8.1 Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):**

Members will recall that the particular piece of legislation was referred to the panel at the last sitting under Standing Order 79. In accordance with that Standing Order I can confirm that the panel has considered this matter and agreed that it should be referred to us in order that we might review the draft law. It is the panel’s intention to complete the review by Easter and I therefore request that the debate on P.164/2013 be listed to resume at the first sitting after Easter, namely 29th April 2014. Thank you.

**The Bailiff:**

Does any Member wish to ask any questions? No? Do Members agree that the matter should be brought back on the date suggested by the Chairman? Very well.

**PUBLIC BUSINESS**

**9. Draft Aquatic Resources (Jersey) Law 201- (P.114/2013)**

**The Bailiff:**

That completes matters under K, so we now come to Public Business and the first matter is the Draft Aquatic Resources (Jersey) Law 201-, Projet 114, lodged by the Minister for Economic Development and I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Aquatic Resources (Jersey) Law. A Law to make provision for the management of aquatic resources other than sea fish. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

**Senator A.J.H. Maclean (The Minister for Economic Development):**

I am going to ask my Assistant Minister, the Deputy of Grouville, to be rapporteur for this particular proposition. She has responsibility and expertise in the fishing area.

**9.1 The Deputy of Grouville (Assistant Minister for Economic Affairs - rapporteur):**

Follow that introduction. Given some of the comments and suggestions I have had regarding this proposition I feel it is probably necessary that I start by telling Members what this legislation is not, rather than what it is. This legislation is not intended to stop farmers and individuals collecting washed up seaweed from the beach to spread on their land and in their gardens. Such an action could not come about without this Assembly’s agreement and I certainly would not bring such a measure forward. This legislation is not intended to stop the individual digging for their bucket of bait for fishing. This legislation will not stop any existing ancient rights that may exist. What this legislation is is an enabling law. Indeed it could be seen as protecting what I have just described.

This legislation is designed to enable and to give greater flexibility and diversity to existing very old and restrictive legislation. As part of our drive on economic development to diversify the economy, there are industries emerging that wish to use the resources of the fisheries sector. There are industries in agriculture, pharmaceuticals, health, product of fertiliser and animal feed and they want to draw on some of our marine resources for their products, which is a good thing. But wearing my environmental hat, we want to ensure those industries emerge in a responsible and sustainable way. The Draft Aquatic Resources (Jersey) 201- Law seeks to put in place a framework to allow the sustainable exploitation of our marine resources that are currently unregulated or regulated under old, very restricted, outdated laws. Currently the Sea Fisheries (Jersey) Law 1994 is the primary legislative tool for the management of exploited marine resources. However the definition used in this legislation to define its applicability is fish and shellfish, which does not cover the full range of living aquatic organisms found in the sea or sought by some of the emerging industries. Species falling out of this definition include seaweed, Maerl and worm. This is a significant gap in the legislation for the management of the Island's marine resources acknowledged by the department and colleagues from scrutiny. It was initially proposed that an amendment to the existing Sea Fisheries Law could resolve this issue but on taking advice it was decided that the most appropriate solution was to create a new law rather than modify an existing one. This Draft Aquatic Resources Law will provide the enabling legislation on the aquatic resources and can be managed and sustained under licence if deemed necessary. I stress those words. The harvesting of live seaweeds - and I am talking about harvesting rather than the collection of dead seaweed from the beaches - is currently legislated for by the *Loi (1894) sur la coupe et la peche des vraics*. The law is in French, is restrictive, harvesting is only permitted between sunrise on the 1st February and as the law quaintly describes "*quand le soleil se couche*" when the sun goes to bed on 30th April. The law's continued presence on the statutes is hampering the development of the sector of the fish farm industry and other emerging industries. Ormers, which feed on seaweed are currently being farmed experimentally but the development of this industry is being restricted by the current legal situation which stipulates, as I have described, the time of year when seaweed can be cut. Fresh live seaweed is required to feed ormers throughout the year. Several inquiries have also been received by the department from individuals looking to harvest seaweed for fertiliser, animal feed, cosmetic and pharmaceutical products, but this activity is also currently not permitted by the *Loi* for the majority of the year. The exploitation of algae has become a large industry in other parts of Europe, particularly in Ireland and Brittany. The current value of Irish seaweed and the associated biotechnology sector is worth €18 million and it is projected to rise to €30 million by 2020. This legislation would allow development of these industries by making use of the renewable resource. While we want to encourage this diversification in our economy and ensure we have appropriate laws to enable it, we have to also ensure that it is managed in a sustainable and appropriate manner. We as States Members will under subsequent subordinate Regulations decide what needs to be regulated to maintain a sustainable marine environment. There was some suggestion on social media and various websites that this legislation would interfere with the time-honoured tradition of gathering vraic for gardens or spreading over the fields.

[12:30]

I would like to assure Members I would not be standing here bringing it forward if that were the case. Indeed, if anything, this legislation is the framework to ensure there will still be seaweed to collect from the beaches and that it is not all harvested on the rocks by successful industries before it is washed up on the beach. If we felt an area of marine resources was being exploited to an unsustainable level we would place appropriate conditions to the licences to ensure the resource is

managed to sustainable levels. The exploitation of worms as a bait species is currently unregulated, which is fine. We have absolutely no intention of restricting or licensing little Johnny when he collects his worms for his evening fish at high tide off the pier. However, we happen to know in our neighbouring jurisdictions the collection of bait is being collected for commercial form and sold off for profit. We currently have no mechanism in place to ensure appropriate levels of exploitation, should it be necessary. Such exploitation could potentially have significant impacts upon the marine intertidal environment, including within the marine protected areas designated under the Ramsar Convention. The ability to manage any exploitation of these species is key to achieving our agreed marine management objectives as defined through local and international strategies, agreements and obligations. At this point I would like to thank Scrutiny for their input and indeed suggested amendment to this law, which have helped improve what we have before us today and which amendments we will come on to shortly. There has been some criticism regarding the consultation process, mainly to farmers. But as we are not seeking to change any practice the farmer has, it would be a case of consulting on what is not going to happen. However, the specifics of any licensing scheme will be done through approval of Regulations in this Assembly, which is the time we feel is the appropriate time to consult and thus giving States Members and members of the public the opportunity to consider the specifics. In conclusion, this draft legislation simply gives greater flexibility to the exploitation of certain marine resources with the associated economic benefits, but also provides the framework for safeguards should they be needed by the Regulations that would come back to this Assembly for approval to ensure our marine resources are managed in a sustainable and environmentally appropriate way for generations to come. I ask Members to support this legislation.

#### **The Bailiff:**

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? The Deputy of St. Martin.

#### **9.1.1 The Deputy of St. Martin:**

Almost exactly 100 years ago to the day - on 7th February 1914 - the vraicing dates for the coming year were decided in the Royal Court. The Bailiff proposed that 9th March be set for the winter harvest and was apparently astonished when all the Constables agreed as this had never happened before. The summer harvest was then set as 20th July, vraicing on the east coast was to take place on 20th April and 7th May. It was against this type of real Jersey tradition that Scrutiny approached the proposition that we have before us today. It may come as a surprise to some Members that Jersey retains on its statute book a law which regulates the harvesting of seaweed, although in all probability seldom consulted, let alone enforced. The *Loi (1894) sur la coupe et la peche des vraics* represents perhaps the last of a series of statutes relating to a once important aspect of Jersey's economy. Because the proposed changes, not insignificant changes before us today, were lodged by the Minister for Economic Development, it fell to my Economic Affairs Scrutiny Panel to look at this. It was also obvious that these matters of aquatic resources were primarily environmental so a joint working group, including members of Economic Affairs and the Environment Scrutiny Panel was formed. Given that some of the historic and parochial rights in the *Loi* specifically concerned the Parishes of St. Brelade and St. Ouen it was apt that both Constable Pallett and Constable Paddock were on the panel. The panel also includes the Constables of Grouville and St. John, Deputy Young and myself. Even the briefest of looks at the current *Loi* gives a fascinating insight. Article 1 permits the cutting of vraic along all the Jersey coast between the 1st day of February and the 30th day of April inclusive from sunrise on Mondays to sunset on Saturday. Article 2 forbids the carrying of vraic in boats or by means of a net other

than on the coast of Noirmont before the third day after the beginning of the permitted harvesting season. Excepted from this are places which are impassable to cars. Similarly it is prohibited to utilise boats to cut or tear vraic from a place where on the same day a cart could have gone. In Article 4 one is prohibited from harvesting *vraic de venue*, that is loose vraic, in the Bay of St. Aubin in a depth of water which exceeds 2 feet and from piling up vraic on the west coast anywhere between Grève de Lecq and Noirmont point. In a number of particular bays it is forbidden to deposit vraic beyond the *plein de Mars*, the high tide mark, at a full spring tide. Such is, or should we say was, the precious nature of this harvest from the sea that the Constables of St. Brelade and St. Ouen were and are officially still permitted by Article 6 to sell vraic in certain parts of the bays in their respective Parishes by those nominated by the Constables to guard the vraic harvested during the night and to repair roads, known as charrières, among the rocks in St. Ouen's Bay. Given all that detail the Constables were initially very surprised that they had not been informed that this proposition was coming. Indeed, no one from either Scrutiny Panel seemed to have been consulted but it became obvious that we need to need to look at the subject much more deeply. The idea of doing away with a very old simple and hugely traditional law and replacing it with quite a lengthy and complicated piece of legislation did not sit easy with us, especially at a time when we are trying to reduce red tape and not add additional burdens of licences and permits. I think that it is fair to say that the panel's initial concerns with this proposition centred around the age old traditional ability of Island residents and specifically our farmers to continue to take vraic from our beaches. Given that Constable Le Maistre and myself have both collected vraic for our respective farms in past years, the panel had additional practical knowledge of how these changes might affect the agricultural community in the future. As Members will have read in the comments paper our initial reaction was to ask for the absolute right of farmers and residents to take vraic from our beaches, to be enshrined in the primary legislation. However, as our various meetings progressed we became aware of the possible consequences of this request. Under our initial recommendations it would have been possible, for example, for a Jersey-registered farming company to quite rightly take as much vraic off Jersey beaches as they wanted to. What, however, would happen if that Jersey company was controlled from outside the Island. Were our initial suggestions implemented it would not be impossible for that vraic to be exported, potentially straight off the beach. If, at some time in the future, vraic becomes hugely valuable again this is not a situation we would want to find ourselves in, especially if the new primary legislation specifically made it impossible for loose vraic to be controlled. Consequently we were happy to revert to the original proposal of allowing the Minister to regulate as and when it is seen fit in the future. We are also comforted by the assurances that any future regulation of loose seaweed will be fully consulted on. Members will also note the section in our comments relating to environmental impact assessments. At the instigation of Deputy Young it was agreed by the panel that a requirement for an E.I.A. (Environmental Impact Assessment) before commercial exploitation of any aquatic resource would be a very good idea. Again, after due consideration the panel added further the requirement that these E.I.A.s should be proportionate and that, for example, a small commercial proposition that could that might only turn over, say, £5,000 annually should not be required to produce an environmental impact assessment over many months and costing, potentially, many tens of thousands of pounds. Both the loose vraic and the E.I.A. proposals were taken on board by the officers we met and the relevant amendments were made. For that the panel are grateful. Finally, I would like to touch on an issue that we raised specifically with the Law Officers at the last of our 3 meetings. We asked why it was not possible to just add a very simple additional line to the existing *Loi*, one that basically said that everything in the sea, all unspecified aquatic resources not covered by other laws would now be covered by Regulation under a specific new Article. We were told that in this day and age it just was not possible to amend primary

legislation in this way and that it would be unlikely to get Privy Council approval if we phrased these proposed changes in that way. Consequently we have ended up with the proposals we are debating today. The old *Loi* could easily sit on 2 sides of A4, the new law runs to 25 pages. I have to tell the Assembly that the panel were not unanimous that this was the right way to move forward, but we are, by a majority, generally supportive of this proposition. I, for myself, am sad to see these old laws disappear; laws that say so much about our heritage and our traditions. I am, however, resigned to the fact that if we wish to protect our aquatic resources into the future we need this legislation and that, as the Law Officers advise, is the best way to go. This may be the only way that we can do this. I am more than satisfied that Scrutiny have done a good job here and asked all the right questions. Members have all the answers before them and the Assistant Minister will have to sum up, but, as ever, it will be for individual Members to decide whether they wish to vote pour or contre. This is not clear cut. Some Members may well interpret the questions and answers in a different way. I personally am not 100 per cent convinced but after taking everything into account I do feel that I can support this proposition today. The safeguarding of our aquatic resources in the seas around our coasts into the future has to be more important than maintaining the traditions of the past. Thank you. I would like to propose the adjournment, if I may.

#### **LUNCHEON ADJOURNMENT PROPOSED**The Bailiff:

Very well, the adjournment is proposed so we will reconvene to continue the debate on the principles after the adjournment at 2.15 p.m.

[12:43]

#### **LUNCHEON ADJOURNMENT**

[14:17]

#### **The Bailiff:**

Does any other Member wish to speak on the principles of project 114? The Deputy of St. Ouen.

#### **9.1.2 The Deputy of St. Ouen:**

Just very briefly. It is not just a case of more red tape, which has been mentioned before, but it is extra cost. I draw Members' attention to the financial and manpower implications because it does say that this particular piece of legislation which relates to the adoption of the Aquatic Resources Law can be accommodated from within existing resources. One feels quite comfortable with that. However - and it is a big however - we are then told that subordinate legislation in the form of Regulations to undertake resource assessment, whatever that is, and to establish a licensing regime will require additional resources. Nowhere does it mention what those resources might be. Again, there is a big "however" because we are told, do not worry because it is intended that where appropriate the cost to administer and regulate this legislation will be recouped from those applying for the licence to exploit the resource. So perhaps when the Assistant Minister sums up she can give us a much clearer indication of the likely resources and manpower requirements that are required to deliver and implement this law.

#### **9.1.3 Connétable J.E. Le Maistre of Grouville:**

Article 21 of this proposed new law repeals the old 1894 law that governs the collection of *vraic*. That law gives explicit rights to anyone to collect loose *vraic* that is washed up on our shore. This new proposed law would give the Minister the ability to regulate and restrict that activity. Given the implications of this fundamental change, I think it is extraordinary that at no time did the Minister or Assistant Minister, or his department, contact the farming community to explain these

changes. The excuse given for completely ignoring the farming community is that there is no intention of regulating this activity. But how on earth were the farming community supposed to know this if they had never been consulted or the fact was never communicated to them? Quite understandably this led to unnecessary alarm and concern when the proposition was lodged back in September. When, as a Member of the Economic Affairs Scrutiny Panel, I mentioned my concerns to the officers who have developed these proposals that proper communication had not taken place, they did not accept the point. I do not think the Assistant Minister has either. I am not keen to support a proposition that will require drafting of Regulations that will restrict activities if I do not think the consultation process will be handled properly and that proper communication will be made to those who will or, just as importantly, might be affected by these Regulations. With regard to the law itself I think it is unnecessarily complex and bureaucratic. It is similar in its design to the Sea Fisheries (Jersey) Law. That law is understandably complex as it deals with many species of fish, types of fishing, types of fishing gear, fish farming and all sorts of other things connected to the fishing industry. In my view this new law does not need to be so complex. According to the report it only has to deal with 3 things: Maerl, worms for bait and vraic. I have to say I am horrified that we would be considering the extraction of Maerl. I would prefer to see it outlawed altogether. The farming industry uses a product called calcified seaweed, which includes Maerl. This product is not currently collected locally, it is used as a neutralising agent to reduce the acidity in soils such as we have in Jersey. It is collected in large quantities from foreshores and the seabed. I dread to think of the environmental damage caused by this practice. Jersey has arguably some of the most spectacular and environmentally precious seashore in the world and I think removing a resource, that in the report to this proposition is described as an OSPAR listed critical habitat, is quite wrong. That leaves us with 2 resources: bait and vraic. I am pleased that the Assistant Minister is not going to regulate the collection of bait by amateur fisherman. I do hope, though, that they are listening today or she does communicate that fact to them so they are not, like to the farming community, left out of the loop. When it comes to commercial bait harvesting I have some reservations. I am pleased the proper environmental impact assessments will be made before any licences are issued. I do not think that the demand for bait locally would trigger activity that would be damaging to our shores so I do not think it needs to be regulated. I am concerned, however, that the commercial harvesting on any large scale would be damaging and therefore I would suggest that the control over over-exploitation of these resources could be achieved simply by controlling the amount that could be exported or, if necessary, ban the export altogether. Finally, we come to vraic and I am pleased the Assistant Minister has given her assurance that loose vraic will not be regulated, but I would like to have seen it explicitly allowed within this new law. We are told that the restrictions may need to be kept in the future for the benefit of farmers as vraic might become so valuable that large operators might move in and remove all of it, thus leaving none for the agricultural industry. I think this scenario is beyond belief, quite frankly. As for the cutting of vraic for Ormer farming, cosmetics, pharmaceutical use or for food, yes, we need to allow this to happen, but again it is the quantity harvested that will be critical and I believe that restricting tonnages, harvested or exported, is the simple way forward to control this activity. I agree with the Deputy of St. Ouen, the financial implications are very vague in the report. I wonder, have any financial assessments been made and where will the resources come from? If those questions cannot be answered, why not? I am going to find it very difficult to support this law, in fact I think it is far too bureaucratic and while I accept we need a law, I do not think this is the right one.

#### **9.1.4 Senator S.C. Ferguson:**

Some time ago I had a certain amount of correspondence with the Assistant Minister about the North East Atlantic Fisheries Commission, which in fact covers the whole of Europe and various

countries around, including the Faeroes, Iceland, Greenland and so on. I note that this Commission does cover sedentary parts of the ecosystem, measures to protect the general marine ecosystem and looks for long term conservation. I understand that we are busy running around negotiating with Guernsey and the E.U. and the U.K. and we are dealing with the minor authorities and not dealing with the authorities that really matter. I wonder if the Assistant Minister has managed to sort out what is going on with this particular aspect of fisheries industry and our marine ecosystem.

#### **9.1.5 Deputy R.C. Duhamel of St. Saviour:**

About a year ago I drew the criticism - unwarranted of course - from a number of colleagues for having the temerity to suggest at a Chamber of Commerce luncheon that I thought that if we were going to be moving into an area of new business, of diversifying the economy, that perhaps environmental businesses were the way to go. Having racked my brains over a number of years and been a member of the fisheries panel, a requisite for 'vraicing' one's brains, I suggested that there could well be merit in the algae production business. I am glad therefore to be vindicated somewhat, in a year later that we have the Minister for Economic Development coming forward to suggest a proper framework to cover any exploitation of those marine resources which, in my view, will be inevitable once the penny drops with the Jerseyman that there are numerous businesses that could be justified in exploiting those marine resources. Only exploiting them ... not in the general sense that tends to take place in the development of the third world countries but in a proper long-term sustainable fashion. Contrary to the last speaker, we do need a wide framework to ensure that over-exploitation does not take place and that we, nonetheless, benefit in the ability to use our natural resources having extended our sea boundaries out to the 12-mile limit and who knows what the future might bring. Some mention has been made of the pharmaceutical industry. There are some 60,000-odd different species of algae, which not only can be grown in sea water conditions but could perhaps be contemplated to be grown as is happening in some of our European countries, Germany and further afield in Israel, in greenhouses. We do have a number of greenhouse properties that are sitting idle at the moment and have done for a long while, having seen the demise of the tomato-growing industry and it is not beyond the realms of possibility, and not too futuristic, to contemplate sea water connections from those greenhouse complexes to grow a range of pharmaceutical products or, indeed, food products. From the research I have done, some of the best foods on this planet for eating for humans are seaweeds and at Christmas I was given a packet of *wakame* and I can recommend it as something that not only I should eat to lose some weight but others too. It contains a whole range of minerals and other bits and pieces that is a welcome relief from the normal kind of range of pre-packed or over-processed foods that this Island and, indeed, a large number of communities around the world are gorging themselves on, to their detriment in terms of the non-health giving properties that the over-indulgence on those foods brings. I think we do need this law. I apologise on behalf of the Economic Development Department and the Minister in that perhaps the legislation is seen by some as extending to 20-odd pages, whatever it is, that it is perhaps more complicated or complex than a short old-fashioned law might be able to be written as.

[14:30]

The modern world, as we all know, is getting increasingly more complex and we do need a proper legislative framework to protect ourselves, not only from over-exploitation but also to encourage the take-up of new businesses in a way that is sustainable and of benefit to growing our economy. I have no hesitation in supporting this legislative move and I encourage all other Members to do the same.

#### **9.1.6 Deputy J.H. Young:**

I am going to be brief. I do not want to repeat the arguments that the Assistant Minister gave us. I think she gave us an excellent rationale for why we need to have a new framework in place to deal with managing this part of our marine resources. Our fishing resources, of course our fish, are already covered under other legislation. I also agree with much of what the Deputy of St. Martin said, the Scrutiny review was done by members of both panels, but I want to highlight just a few key issues. When I first saw this law in common with other Members I did think it was bureaucracy writ large, that was my immediate distinctive reaction. Something which personally I prefer that we should avoid because the powers in this law are very wide and when used as an incentive could give swingeing powers. I listened carefully to the arguments of why we needed this law and I was persuaded that the law really mirrors that which is in place for the fishing industry. I ask myself the question: who is going to enforce this? I think this is a crucial point. Bearing in mind discussions we have had in other contexts about licensing and so on and regulation for fishermen, particularly this morning in question time we spoke about harbours. I think it is important that when we have laws like this they are proportionately enforced to ensure that people who are subject to that enforcement can accept those decisions as being reasonably based for a proper purpose. Of course, I am comforted; I have certainly had the privilege of working with the fishing regulation team, who are the team in Environment who will have the responsibility for this law. I know they have an excellent track record of doing that sensibly and proportionately enforcing fishing legislation. They do so under the Bay of Granville agreement and the agreements with the U.K. both in our own 3-mile waters and in the 3 to 12, and so I have no reason to believe that that kind of reasonable approach will not be adopted. Of course, at the end of the day, this is an enabling law. To put this law into effect requires Regulations. We are always told - and again I think there is no choice - that it will be a Minister with a light touch. I hope it is and that those Regulations when they come forward will be proportionate and balanced and will deal with the issues that Members are raising about bait and vrac and so on. I think, for me, they are aimed at ensuring that what exploitation takes place is sustainable and environmentally sound practice because we are dealing here with marine ecosystems in our deep waters and in our intertidal areas. Those are sensitive ecosystems and that is one of the reasons why, as Chairman of the Environment Scrutiny Panel, I requested that the law be altered by amendment to include some power that in the Regulations would be rules about requiring environmental impact assessments, which we will debate in a moment. In the end I come to the conclusion, if you like, I do not like extension of bureaucracy but the world changes. We have to have a means of controlling what are new, innovative practices and in this case, providing they are environmentally sustainable and can be done without damage to our sensitive environment, we have to have those tools. So I will be supporting the principle.

#### **9.1.7 Deputy G.C.L. Baudains:**

Sometimes I wonder - and this is no reflection on the Scrutiny Panel - if we all scrutinise this sort of legislation enough. In a similar vein to the Constable of Grouville, this does cause me some concern because this legislation involves applications for permits and environmental assessments and, to my mind, this is creating yet more bureaucracy, which we pass through this Assembly willy-nilly without any great concerns about the impact it will have on the public or the resources that it will take. The small person will be required to possibly produce environmental impact assessments and no doubt jump through many other hoops. To me this has all the hallmarks of legislation looking for a problem to fix. I am surprised that the Minister for Economic Development is sponsoring this given his lead role in public sector reform and wanting to cut back on bureaucracy and the public service, and yet here we have legislation that will, no doubt, increase the number of public servants required to administer it. I am not inclined to support this, as no

doubt the Members will have realised. As the Deputy of St. Martin said, would it not have been better to amend the current law and to keep it simple? Why are we making yet more work for the public service to do, increasing the number of public servants required and, at the same time, creating inconvenience for the small person going about his everyday business? I do get very concerned. As Deputy Young said, we assume, in my view too often, or rely on the fact that it will be administered with a light touch, and that does not always follow. We find that there are all sorts of hoops for people to jump through, by which time it is too late. I think we really need to consider this in greater detail than we probably have done.

**The Connétable of St. John:**

Could I put a question to the Attorney General, if I may? Given that we have an existing law from 1894, would it not have been possible to have had 3 or 4 lines just tacked on to the end of that *vraic* law to cover this instead of having to go through the 25 pages of proposed legislation?

**The Attorney General:**

It is a little bit difficult to answer that question. The old law is, of course, in French and the amendments would need to be made in French. It would need to provide for rights of appeal, which there are not any. It would need to provide for legislative *vires*, which there are not any. It would need to do all of those things but in the French language, or a number of those things that this particular piece of legislation does. So it would, of course, theoretically be possible but it is not entirely clear to me that it would be a desirable thing to do.

**The Connétable of St. John:**

Thank you. On the second point, it also mentions that if you are digging for worms for leisure fishing there would not be any legislation; it would be okay to go. What about the small business like we have in the market that goes and collects a few worms to sell to his clients who buy his fishing rods or hire his fishing rods, or the company that work similarly at St. Catherine's Breakwater in the summer months? You see people have rods for hire and they supply bait. Would these small operators also be caught up in all this bureaucracy of having to get a licence to dig for the small amount of bait?

**The Attorney General:**

The legislation is purely an enabling piece of legislation. It sets out the kind of Regulations that the States can make, but it is entirely a matter for the States as to what Regulations it makes and what conditions it puts on things. It would be in considering those Regulations that the necessary safeguards and protections might be included to deal with the matters that the Connétable has spoken about or, indeed, any of the other matters that might be of concern to Members. Nothing at the moment is permitted or prohibited under this piece of draft legislation if passed by the Assembly. That will all happen when Regulations are proposed and adopted by the States. Nothing changes other than when the appointed day cancels the pre-existing legislation relating to *vraic*, but things only then change when Regulations are put before this Assembly and they can be subject to the safeguards and amendments as Members wish.

**The Connétable of St. John:**

I thank the Attorney General. Being a member of the Scrutiny Panel that reviewed this, I am minded to support it, although I had one or 2 reservations. I will listen to any other arguments from Members in the Chamber.

**9.1.8 Deputy M. Tadier:**

There is always an element of nostalgia, I think, when we talk about such issues that are close to Jersey traditions and cultures. We heard a passionate speech from the Deputy of St. Martin talking about reverting from the old law, which was written in French and was very poetic, I thought, when it was read out. The more technical and thicker document being put before us is perhaps a big shift. We have all seen the images of the vraic horse and carts probably down at St. Ouen and other places. I know that recently I was walking along St. Ouen's Bay and I saw somebody who I thought was vraicing in the traditional Jersey way without a horse and cart. It was only when I got closer that I recognised it was our good friend and parishioner Hedley Le Maistre, who was down at St. Ouen doing some vraicing. But then I realised he was not using the traditional Jersey vraic fork, which any good Jersey fisherman or fisherwoman would be using. He was using what looked like a bayonet and sure enough, as I got closer, there was Hedley stabbing his bayonet into the seaweed. I said: "What are you doing, Hedley?" and he said: "I have heard that Osama bin Laden is hiding in 'Iraq'." This was a few years ago. **[Laughter]** If ever there was one occasion to try and shoehorn that joke in, it certainly has to be today when we are talking about vraic. I do know that this debate generated quite an unusual amount of buzz on social media when the word was spreading: "You have to listen to the States debate today" particularly among the younger generation. They said: "Why?" Because the word was getting out that the regulation of weed for personal use was being debated and likely to be passed. **[Laughter]** I think possibly for the first time the younger generation were getting involved in politics. But alas, they soon realised that it was seaweed that was being discussed and not any other variety of the green stuff. Nonetheless, it seemed to at least spark some interest for a limited time. Of course, there is a serious underlying issue here and, quite rightly, the debate has been about the impact that such legislation has on the users: is it light touch versus are we over-regulating, and the impact it will have. The way I look at it is very much that the dangers of over-fishing far outstrip any dangers and inconveniences of a law which we can put the meat on the bone afterwards to make sure that it does what it says on the tin. We already have fishing laws but obviously the marine environment is a complex ecosystem. Whether it is to do with seaweed or to do with bait, that clearly has an impact on the fishing stock. I think it needs to be welcomed by all of us and, of course, the relevant caveats need to be taken on board. I am sure the Minister, who is not known for his heavy-handed legislation anyway, will take that on board and it is probably a message that does not need to be reinforced. I do share the concerns about the financial versus amateur because, as far as I can see, it does not necessarily always fall into that clear-cut a category. You may have, for example, the markets being mentioned. St. Ouen's Motorworks is another one where they sell probably ragworm up there. Whether or not it is locally sourced I am not sure, but it may well be that you do get small suppliers of lugworm and whitecats, and others may fish for green crab, *et cetera*. That is not primarily a commercial operation. It is something which is usually stocked out of convenience. It may even be a loss leader so that when people come into their shop to buy hooks and tackle they can get their bait there as well. It seems to me that you could have a scenario where amateur fishermen are digging bait in a completely unsustainable way which is not being effective and helpful to the environment, whereas you could have a very small financial operation which is fishing and sourcing its bait in a much more sustainable way. The test should not necessarily be a financial one and to do with turnover; it should be to do with the environmental impact that any of those fishermen are having on the natural environment. So I would just raise those considerations for the Minister. As somebody who is a keen albeit fair-weather fisherman myself, I just put those comments on the record.

#### **9.1.9 Senator A.J.H. Maclean:**

Just very briefly, I would like to make the point that I understand the concerns of some Members around this. I have to say that I am not a great fan of bureaucracy or red tape. Deputy Baudains made the point that I have responsibility with regard to reform, and consequently when new legislation comes forward I do look with my beady eye very closely to see if it meets the test. I have to say that my Assistant Minister and I challenged this proposal in some depth simply because we were concerned about the impact that such legislation could potentially have and the cost associated with it.

[14:45]

I thank Deputy Tadier for his comments. I am very keen on a light touch and a pragmatic application of laws that are necessary, not unnecessary laws that are applied perhaps in a heavy-handed way, which is not in anybody's interests. However, as far as this is concerned, my view is absolutely clear. We are putting in place - and thank you to the Attorney General for clarifying the point - the primary legislation today. This is, quite simply from an economic point of view, opening up an opportunity. We have to consider that there is potential, as the Minister for Planning and Environment, Deputy Duhamel said earlier on, that industries such as the pharmaceutical industry and cosmetic companies could well find ways of exploiting this resource in the future. As such, we have to have an appropriate way not only to protect it but also to extract value. This is effectively what we are doing by putting in place this legislative framework. The key, as the Attorney General has made absolutely clear, is going to be in the Regulations, and I hope that the Constable of Grouville will seek some comfort from the fact around his concerns that consultation will happen absolutely appropriately with the agricultural industry and others at the time of Regulations to ensure that they are appropriate and targeted in the way that they should be. That is exactly as it should be. In summary, I hope Members will support this proposition to set this framework in place to allow us the opportunity to capture value and opportunity in the future but also protect the resource at the same time that that is done and as such deal with the detail which will come in the Regulations in due course.

#### **9.1.10 The Connétable of St. Lawrence:**

A couple of Members have mentioned the impact on ecosystems. My understanding with the 1894 law was that it served the purpose of allowing the sustainable harvesting of seaweed. I am concerned at the potential for over-extraction under this new law, notwithstanding the licence applications required and the environmental impact assessments. I would like to ask the rapporteur to answer a specific question, please, which is with regard to our natural ormer stocks. Will she confirm that these stocks are in decline now? Will she guarantee that if we agree to the commercial harvesting of seaweed it will not have a further detrimental impact on those natural ormer stocks by removing their food source?

#### **9.1.11 The Connétable of St. Brelade:**

Just very, very briefly, I know this is a very old law. I know it dates back to 1894, but if you read the 1894 law it is littered with references to St. Brelade and St. Ouen. What I find particularly disappointing, and I have made that known to the Minister, is that there was no early consultation with either Parish in regards to historic rights that were held within those Parishes. They do relate to issues that I know are outdated and I fully accept that repairing cart ways and guarding vrac and asking people to guard vrac for 3 shillings a night is well past its sell-by date. Nevertheless, it is something I am particularly disappointed about that we were not consulted early on. I, like the Constable of Grouville, have concerns about regulation and over-regulation and it being too overbearing. I think it is important that regulations are not overbearing, but the old law did prevent

seaweed being cut all year round and I think it is important that new regulations are brought in to prevent cutting all year round, although again I do wish that this Regulation is, like I say, not too overbearing. Maybe - and I say only maybe - there might be an opportunity in future, if a new emerging industry exists that is based around cut seaweed, that those Parishes, St. Brelade and St. Ouen, may have a part to play within that. Like I say, my biggest disappointment was we were not consulted early on, but I also will be supporting the law.

**The Bailiff:**

Does any other Member wish to speak on the principles? Then I call upon the Assistant Minister to reply.

**9.1.12 The Deputy of Grouville:**

I will take a few of the general points that have been made, which seem to have a repetitive tone with the speakers. The Deputy of St. Martin spoke about the ancient laws. I think anyone that has had anything to do with this law has approached this debate and looked through this proposed legislation with the same sort of nostalgia reading the old law and then making it into this new modern-day law. We have all had, if I am to be honest, a certain amount of reservation because the old law is, as has been so eloquently and quaintly described, a bygone era. I think that is always quite sad. However, compared to the law, imagine a scenario whereby the vraic was being harvested to such an extent that there was no resource left for the ancient vraicing and spreading of vraic on the fields to take place because it simply was not being washed up on our shores. Equally, if we saw JCBs go down on the beach to collect worms for bait we would have absolutely no powers to stop that if it was having a damaging effect on our ecosystem. I think this legislation is a question of balance. Deputy Tadier said that this is all about sustainable practice and it depends on the environmental impact an activity is having. That is the bottom line here. We have to make this legislation broad and over-reaching because we do not know what is going to happen in the future. We do not know what elements of our marine resource are going to be valuable. Who would have thought years ago that vraic would be harvested for pharmaceuticals and health, but it is and it is being done on a huge scale in other jurisdictions. So we deliberately, on advice - as the A.G. (Attorney General) spoke and said that we cannot amend the old law - have this new law to encapsulate all our marine resources and make it as broad as possible. So I hope that answered quite a few of the points that people were making. As far as the consultation, I take on board what my Constable has repeatedly said to me in the past 3 weeks about not being consulted. As I said in my opening speech, this is enabling law and we do not propose making any changes. In actual fact, what we are proposing is hopefully going to safeguard a lot of the ancient practices. So it would be a case of consulting on something that we are not proposing, but I do take on board what the Constable of St. Brelade said, that it is going to stop them having rights on the roads and that sort of thing in St. Brelade or some strange things that go with the ancient law. When the Regulations come back, that is going to be the time that we can consult and scrutinise, and everyone in this Assembly will have their say on what they think is appropriate that we can use to manage our marine resources, which is what this is all about. There were a few specific comments such as, again, the Constable of Grouville. He spoke about regulating the collection of bait but again, as I said, that will be a matter of it coming back to this Assembly. We shall decide what gets regulated and what does not. The quantity of vraic being taken and could this simply be done by a ban on export or the quantities being exported: no, it cannot because what happens to the ormer farms that have been set up? They are here, they are on the Island, and the vraic is being harvested to feed the ormers. The bureaucracy we hope will be kept to an absolute minimum, which is the reason why the Articles, which we will come on to shortly, are based on the same sort of template as we have

used for the Sea Fisheries (Jersey) Law 1994, which works extremely well. We are going to be using the same sort of powers and regulations in this law as the manpower used to regulate and enforce that law, so hopefully the manpower will be kept to an absolute minimum. As for the charging, again that is down to this Assembly. If we have a multi-million pound, foreign-owned company that is harvesting our vraic for pharmaceutical reasons, we might have an opinion on how much we should charge for a licensing fee, for example. I am afraid at this point in time I cannot answer the Constable of St. Lawrence's question, are ormers in decline. They are going to be farmed, as I have alluded to, and that is why the harvesting of vraic is going to be used to feed them. I would have to take advice from the officers as to whether the ormers are in decline. In summary, this is about sustainability. This is about enabling businesses to be set up, allowing our economy to diversify to use our natural resources, but also to keep it an environmentally sustainable practice. Thank you. I make the proposition.

**The Bailiff:**

Very well, do you ask for the appel, Assistant Minister?

**The Deputy of Grouville:**

Yes.

**The Bailiff:**

The matter before the Assembly is the principles of Projet 114. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 33</b>	<b>CONTRE: 7</b>	<b>ABSTAIN: 0</b>
Senator A. Breckon	Connétable of St. Lawrence	
Senator S.C. Ferguson	Connétable of St. Mary	
Senator A.J.H. Maclean	Connétable of Grouville	
Senator B.I. Le Marquand	Deputy of St. Ouen	
Senator F.du H. Le Gresley	Deputy G.C.L. Baudains (C)	
Senator I.J. Gorst	Deputy J.P.G. Baker (H)	
Senator P.M. Bailhache	Deputy R.J. Rondel (H)	
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. John		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisssier (		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L		
Deputy of Trinity		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		

Deputy A.K.F. Green (H)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

**The Bailiff:**

Deputy of St. Martin, this matter has already been considered by your Scrutiny Panel so I assume you do not want it?

**The Deputy of St. Martin:**

No, thank you.

**The Bailiff:**

Very well. Now, Assistant Minister, how do you wish to take the Articles?

**The Deputy of Grouville:**

Well, there are 2 amendments.

**The Bailiff:**

Yes, we will have to take them separately.

**The Deputy of Grouville:**

The rest of them I can just speak generally on.

**The Bailiff:**

Yes, very well. Why do you not propose Article 1 and then we will go on to Article 2 where there is an amendment, and then you can probably propose Articles 3 to 21 together.

**9.2 The Deputy of Grouville:**

Okay. Well, Article 1 is the interpretation of the law so that is fairly ...

**The Bailiff:**

Article 1 is proposed. Is it seconded? **[Seconded]** Does any Member wish to speak on Article 1? All those in favour of adopting Article 1, please show? Those against? It is adopted.

[15:00]

Now, there is an amendment to Article 2 proposed by the Minister. Are Members content that we take Article 2 in the amended form? Very well. Do you propose Article 2 in its amended form then?

**The Deputy of Grouville:**

I do. I can speak on the amendment very briefly. In doing so, I would like to record my thanks to colleagues from both the Environment and Economic Affairs Scrutiny Panels for their considered and constructive contribution to this amendment. Following discussion with both panels, a minor amendment has been lodged to Article 2. The new Article 2(1)(p) clarifies that an application for a licence will be required to include details of environmental impact scaled appropriately to reflect

the size of the activity. While this was always the intention to include this as a requirement in subordinate regulations, this amendment gives clarity to the law.

**The Bailiff:**

Is Article 2 as amended seconded? **[Seconded]** Does any Member wish to speak on Article 2? Deputy Young.

**9.2.1 Deputy J.H. Young:**

Just to say briefly as Chairman of the Environment Panel I am grateful to the Minister for having taken on board the principle of this amendment to Article 2, which now, of course, requires an environmental impact assessment, which I think is absolutely the right precautionary principle. The law would have been incomplete without it and there would not have been the power to set out what is required in an assessment and when it is needed and so on in Regulations without it. So I think that is very good. I would just like to highlight the second part of the amendment to Article 2(1)(p). It says that an environmental impact assessment will have regard to the scale of an activity, which I think is sensible because I do not think anyone wants to require assessments for really quite minor and insignificant activities, but it also says for similar activities carried on proposed by any one person. That means, to me, that if we get lots of multiple applications for commercial exploitation that the assessment can take into account the increased combined effect. I think that is very good. Under the unamended Article 2(a)(2), reference is made that the Regulations will deal with what is called a fit and proper person. I wonder if we might have a comment from the Assistant Minister as to what is a fit and proper person. I assume, as this mirrors the fishing regulations, there must be a similar clause in the fishing laws. I must admit until I saw this I had no idea that part of the Regulations could cover what is a fit and proper person and what is not. Maybe we can clarify that, but other than that, those are the only comments I want to make on Article 2.

**The Bailiff:**

Does any other Member wish to speak on Article 2? Then, Assistant Minister, do you wish to reply on Article 2?

**The Deputy of Grouville:**

Just that I would like to ask the Attorney General if there is a description in the law for a fit and proper person.

**The Attorney General:**

I am not aware of there being a definition within the Sea Fisheries Law but, even so, there would not be a direct read across from Sea Fisheries to here. I would take a fit and proper person to be when you are considering activities for which a particular qualification may be needed or particular skills may be needed in order to conduct the activities you would want to make sure that person had the qualification and skills, and that would be the definition of a fit and proper person, I believe.

**The Bailiff:**

Very well, all those in favour of adopting Article 2 kindly show? Those against? Article 2 as amended is adopted. Do you wish to move now to Articles 3 to 21, Assistant Minister?

**9.3 The Deputy of Grouville:**

Yes, I do. If I can just speak very briefly on these, as I have already alluded to these are generally the enforcement and powers modelled on the Sea Fisheries (Jersey) Law 1994, which works

extremely well but just covers fish and shellfish. These are obviously extended to all the marine resources but the powers and enforcement rights are the same.

**The Bailiff:**

Very well, are Articles 3 to 21 seconded? **[Seconded]** Does any Member wish to speak on any of those Articles? Deputy Young.

**9.3.1 Deputy J.H. Young:**

It is just a question. Article 5, exemption for scientific research, obviously I just wondered where the decision lies there. Is that the Minister for Economic Development? Obviously, scientific research suggests it is more environmental. I just pose that question on Article 5.

**The Bailiff:**

Does any other Member wish to speak on any of the Articles? Then do you wish to reply, Assistant Minister?

**9.3.2 The Deputy of Grouville:**

Just to say that it says it is the Minister but obviously the Minister, if he does not feel that he can make a decision without a qualifying scientific statement from an appropriately qualified person, then I would have thought, as it says here, as the Article says, it is the Minister that is granting the exemptions.

**The Bailiff:**

Very well, all those in favour of adopting Articles 3 to 21 kindly show? Those against? They are adopted. Then in Article 22 there is again an amendment lodged by the Minister, so are Members content to take that in its amended form? Very well, do you propose Article 22 in its amended form?

**The Deputy of Grouville:**

Yes, I do, and if I could just say that this amendment just makes a small change to the final Article of the law. In the original draft, the law came into effect 7 days after registration in the Royal Court. As the Draft Aquatic Resources (Jersey) Law repeals the *Loi*, it would have been necessary to ensure Regulations were drafted and approved before this date. It would not be possible to guarantee that the Regulations would be in place by then and that there would, therefore, be a potential legislative loophole allowing, as an example, for unregulated exploitation of seaweed between times. It would be deemed prudent to amend the legislation. The amendment whereby the law comes into force on such day or days as the States may by Act appoint will allow for the subordinate Regulations to be drafted, consulted upon and debated in an appropriate timeframe and remove the potential for unregulated exploitation while this process takes place. So this would seem a very simple yet prudent change.

**The Bailiff:**

Is Article 22 seconded? **[Seconded]** Does any Member wish to speak on Article 22? All those in favour of adopting Article 22 please show? Those against? It is adopted. Do you propose the Bill in Third Reading, Assistant Minister?

**9.4 The Deputy of Grouville:**

I do and I ask for the appel.

**The Bailiff:**

Is the Bill seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? Yes, the Deputy of St. Martin.

**9.4.1 The Deputy of St. Martin:**

Notwithstanding the concerns over the lack of consultation in the early stages, I think it is fair to say that once dialogue and meetings had commenced between the Scrutiny Panels and the officers we had some extremely constructive discussions. I would like to thank them for that and I look forward to continuing that work when the Regulations come back to the House. Thank you.

**The Bailiff:**

Does any other Member wish to speak? All those in favour of adopting the Bill in Third Reading? Oh, the appel, I am so sorry, yes, quite right, the Assistant Minister asked for the appel. It is called for. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 34</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 1</b>
Senator P.F. Routier		Connétable of St. Lawrence		Connétable of St. Mary
Senator S.C. Ferguson		Connétable of Grouville		
Senator A.J.H. Maclean		Deputy of St. Ouen		
Senator B.I. Le Marquand		Deputy G.C.L. Baudains (C)		
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

## **10. Draft Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law 201-(P.163/2013)**

### **The Bailiff:**

Very well, the next matter on the Order Paper is the Draft Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law 201-, Projet 163, lodged by the Chief Minister. I will ask the Greffier to read the citation.

### **The Greffier of the States:**

Draft Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law. A Law to amend further the Terrorism (Jersey) Law 2002, the Proceeds of Crime (Jersey) Law 1999 and the Misuse of Drugs (Jersey) Law 1978; to repeal the Drug Trafficking Offences (Jersey) Law 1988 and make consequential provision; and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

#### **10.1 Senator I.J. Gorst (The Chief Minister):**

Members will be aware that Jersey was last assessed regarding its compliance with international standards in relation to anti-money laundering and the countering of the financing of terrorism - I may use the terms A.M.L. and C.F.T. in future when I refer to them - by the International Monetary Fund in 2009. Since that time, work has been ongoing to address the recommendations in the I.M.F. (International Monetary Fund) report. That work is overseen by the Island's Financial Crime Strategy Group consisting of members from my department, the regulator, the Law Officers' Department, the Treasury Department and the Commission itself, the Financial Crimes Unit of the States of Jersey Police, Customs and Immigration and the Gambling Commission. The Island is due to be assessed by MONEYVAL, a body of the Council of Europe who are now charged with assessing the Island's compliance with international A.M.L. and C.F.T. standards. MONEYVAL are due to visit Jersey for a full assessment in September of this year and in advance of that time work is ongoing to finalise the Island's response to the I.M.F. recommendations from 2009. This draft law addresses a number of recommendations from the 2009 report, and perhaps I could just cover the 4 aims briefly: firstly, to ensure that Jersey has one set of provisions that relate to the laundering of the proceeds of criminal conduct, including the restraint and confiscation of such proceeds. Currently, Jersey has anti money laundering provisions in each of the Proceeds of Crime (Jersey) Law 1999, the Terrorism (Jersey) Law 2002 and the Drug Trafficking Offences (Jersey) Law 1988. At present, drug money laundering is dealt with under the Drug Trafficking Offences (Jersey) Law 1998, the money laundering of terrorism property under the Terrorism (Jersey) Law 2002 and any other form of money laundering under the Proceeds of Crime (Jersey) Law 1999. I think the simple reading out of those laws proves the point of the need to bring those together. Secondly, it addresses outstanding technical issues identified in the Jersey 2009 I.M.F. assessment report. Thirdly, it addresses an identified gap against the revised Financial Action Task Force commonly known to Members as F.A.T.F. standards issued in February 2012. Jersey will be assessed against the revised standards when the next but one assessment of the Island takes place. This will probably be in 2017. The next assessment, however, is due to take place in 2014 but, importantly, that will be under the 2004 standards. Finally, to align specific provisions with the requirements of the United Nations Convention against transnational organised crime and the Council of Europe Convention 141 on laundering search, seizure and confiscation of the proceeds of crime to allow for these conventions to be extended to Jersey. The main thrust of the draft is to separate the provisions dealing with proceeds of crime of all kinds including the proceeds of crime relating to drug trafficking and to have all of these in one place, that is the Proceeds of Crime

(Jersey) Law 1999, while retaining separate provision in the Terrorism (Jersey) Law 2002 and the Misuse of Drugs (Jersey) Law 1978 to deal with property used instrumentally in or in facilitating certain crimes. The Proceeds of Crime (Jersey) Law 1999 and the Terrorism (Jersey) Law 2002 are also being updated to reflect those I.M.F. recommendations. The draft contains provisions amending the Proceeds of Crime (Jersey) Law 1999 and the Terrorism (Jersey) Law 2002 which are each contained in separate parts of this draft law. Alongside this, there is another part of the draft law repealing the Drug Trafficking Offences (Jersey) Law 1988 and placing certain provisions of that law which remain to be preserved into the Misuse of Drugs (Jersey) Law 1978. Other provisions of the Drug Trafficking Offences (Jersey) Law 1988 are preserved by an extension of the scope of the Proceeds of Crime (Jersey) Law 1999. There is another part dealing with transnational arrangements and the schedule makes the necessary consequential amendments to the other pieces of legislation.

[15:15]

To summarise, the overall scheme behind the draft law is the rationalisation of existing provisions relating to the laundering of the proceeds of criminal conduct by bringing these together as far as possible in a single framework. The law is therefore correctly described as more of a consolidation exercise than the introduction of a significant amount of new provisions. We will come on to this when we deal with the Articles. Members will also be aware that at the end of January of this year, I lodged an amendment to the proposition. This was lodged due to a recommendation received from MONEYVAL after the lodging of the original changes stating that as the Island was in the process of consolidating its anti-money laundering legislation, we were strongly advised to address a matter concerning a reporting obligation in the draft law and that arose from attendance at a MONEYVAL plenary session, which I think was late last year or earlier this year. I am not sure if it was December of January, forgive me. The Attorney General has subsequently supported the adoption of this recommendation in the draft law and I therefore amended this proposition and hope that it will be taken as amended in due course. So there are no financial manpower implications for the States arising from these amendments and I have obviously received, as Members will see, Human Rights advice from the Law Officers' Department and made the appropriate declaration thereon. Therefore, it is quite a technical law - and we will come on to that in due course - but I hope that Members will see from my short introduction and from the report attached to the Regulations that it is, while technical, a very important updating and bringing together of various provisions to give clarity and also to meet the requirements of the recommendations that the I.M.F. have made and will also enable us to have those 2 conventions extended as I noted and, therefore, I maintain the principles.

**The Greffier of the States (in the Chair):**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles?  
Deputy Young.

**10.1.1 Deputy J.H. Young:**

One question because obviously this is a very complex law, as the Chief Minister has told us, consolidating what is in other laws at the moment. He may wish to pass this question on to the Attorney General or not or answer it but those people that are employed in financial and legal services, obviously the big procedural issue is whether or not suspicion is reported to the authorities. The position that employees find themselves in of course is that having got the statutory requirement which binds upon their principles, at the moment, the law provides protection for employees who bring that suspicion to the notice of their principals within the procedures of

their company which gives them a defence if there came a case that they should have reported to the authorities and did not. Can I be assured that in these various changes, that principle runs throughout and, therefore, in the case of people working within regulated financial services business and registered legal services businesses, that protection that exists is continued within these provisions?

**10.1.2 Senator S.C. Ferguson:**

In the days of the 2 separate laws, I think there was sometimes a certain amount of confusion as to what the monies could be applied to. Perhaps the Chief Minister, in summing-up, would like to explain what the parameters will be for charities or bodies which might want to put in an application for funds from these particular 2 funds.

**10.1.3 The Deputy of St. Martin:**

I would like to assure the Assembly that the Economic Affairs Scrutiny Panel have looked at this and taken a briefing and we are satisfied that the draft legislation is going to strengthen Jersey's position. The current legal framework we enjoy at the moment will not meet the equivalence test which is important to maintain Jersey's access to European markets and being unable to access these European markets, would certainly be detrimental to Jersey's finance industry. I take on board Deputy Young's comment about reporting but I am sure the Chief Minister is going to mention that but I would just like to say to the Assembly we have looked at this and we are satisfied with it. Thank you.

**The Greffier of the States (in the Chair):**

If no other Member wishes to speak, I will call on the Chief Minister to reply.

**10.1.4 Senator I.J. Gorst:**

I was not necessarily confused by Deputy Young's question but I think he used the word "suspicion" and those working in the financial services sector, if they are suspicious, then it should be reported and, yes, the law does deal with the appropriate individual that they should make that report to. When we go into the Articles, we will see that it is there. I just have not had time to look at that particular Article but it is in there because I re-read it again at lunchtime, but it can be the authority or the person designated by the financial services institution. Regarding monies applied to that might be gathered and put into the fund, the Senator has been in correspondence with myself and an official at my department and, therefore, she does know that Article 24 covers that and Members, I hope, will take comfort from that. I think what she is referring to is perhaps past experience where she has been part of a third sector organisation which has applied for funds to be used from these funds and that has not been approved. These funds obviously arise from engagement or can arise from engagements with other jurisdictions and therefore their use is closely monitored and that is right and there are specific uses to which these funds can be put. I am not sure that there is anything else that I can say in that regard at this time. I thank the Chairman of the Scrutiny Panel for their in-principle support of the updating of these laws and the importance of ensuring that we comply with international standards and that we act upon the recommendations of the I.M.F. in due course and obviously MONEYVAL.

**The Greffier of the States (in the Chair):**

All those in favour of adopting the principles, kindly show. Those against? The principles are adopted. I was not entirely sure if this fell within the remit of the Corporate Services or the Economic Affairs Panel but it appears that Scrutiny has done its work on this.

**The Deputy of St. Martin (Chairman, Economic Affairs Scrutiny Panel):**

Yes, Sir, and we do not need to review it further. Thank you.

**The Greffier of the States (in the Chair):**

Chief Minister, we have an amendment to Article 8 so that will need to be taken separately. I do not know how you would like to propose the Articles. Would you like to propose Articles 1 to 7 initially?

**Senator I.J. Gorst:**

Is it not possible to propose *en bloc* as amended, Sir?

**The Greffier of the States (in the Chair):**

Well, the view that has just been taken with Aquatic Resources is it is traditional to take the Articles that are amended separately. If you could proceed in that way, we will take initially Articles 1 to 7.

**10.2 Senator I.J. Gorst:**

Hopefully, Members will, if they are looking, have the Regulations in front of them and will see that Articles 1 to 7 are reasonably straightforward and, in effect, changing various descriptions including the definition of “terrorism”. 4 and 5 is the definition of “terrorist property” and the terrorist entity and I maintain those Articles.

**The Greffier of the States (in the Chair):**

Articles 1 to 7 are proposed. Are they seconded? **[Seconded]** Does anyone wish to speak on any of those Articles? Deputy Le Hérissier.

**10.2.1 Deputy R.G. Le Hérissier:**

Just Article 2, where it says: “An act of terrorism may be an attempt to influence the States to act in a certain fashion.” Does the Chief Minister believe that that could be misinterpreted? There are people trying to influence the States all the time in many ways. Thank you.

**10.2.2 Deputy G.C.L. Baudains:**

In a similar vein, I had already underlined the meaning of “terrorism” but first of all, I was a little disappointed under Article 2(1)(a) where we were told that the offences are listed in schedule 10. I looked at schedule 10 - presumably that is the one on page 62 - and I did not learn a great deal. It certainly did not have the list that I was hoping to find. Now moving to the bottom of the page and addressing what Deputy Le Hérissier referred to in that Article 2(1), it does seem very wide to me and of course what we intend and what happens can be 2 different things. It seems to me that it could include canvassing or objection to States policy or all sorts of things if somebody were so minded to enforce it that way. Turning over the page, to (ii): “... to intimate the public or a section of the public”, well, I hope this is going to apply to the T.V. (Television) Licensing and the harassment of households that do not have a television licence. **[Laughter]** I am now feeling it is a bit of a laugh. I have got a pile about this high of those envelopes but I know that, seriously, there are elderly people who do get very frightened about this sort of thing. Staying on the same page, Article 2(2)(c) and (d) means, in all seriousness, this could quite easily apply to damaging airport landing equipment with a shotgun. It would define the person as being a terrorist. Well, clearly, that is an unintended consequence but that is the trouble with this sort of legislation. People are being labelled “terrorist” when clearly they are not with all the issues and problems that go with

that labelling. We have seen quite a lot of it happen in the United States recently. The law is clearly well-intentioned but I would draw Members' attention to the danger of unintended consequences.

**The Greffier of the States (in the Chair):**

Does any other Member wish to speak on those Articles? No, well, I will call on the Chief Minister to reply.

**10.2.3 Senator I.J. Gorst:**

Often, unfortunately it is the case when amending a law like this that we start talking about the existing law rather than necessarily the amendments and can I just say I was extremely grateful for the Law Draftsman providing all Members with a changed version so striking out that which has been removed and putting in the amendments. If we look at that version, we see that the terminology that Deputy Le Hérissier is concerned about has been taken from the existing law so we are not changing it in that regard. Deputy Baudains has raised concerns about how that will be interpreted. If he looks under 2(1)(b), it talks about an Act falling with paragraph 2 and then if we go down to 2(1)(ii), we then understand the way that that will be interpreted. Therefore, the concerns that some Members have raised I think are allayed if they just follow through the particular Articles within the legislation and I hope, therefore, that Members will be satisfied that this legislation is appropriate. Of course it raises a bigger issue that a lot of these changes in legislation arise out of international standard-setters and therefore we have to make sure that our legislation complies with what they are saying and when they make recommendations to us, then we have to ensure that that complies as well. Thank you.

**Deputy R.G. Le Hérissier:**

I wonder if the Chief Minister could refer to the page where he said that my mind would be put at rest.

**Senator I.J. Gorst:**

Can the Deputy just confirm that he has got access to the amended version? Yes, well, if he looks on page 13 - and I do not wish to oversimplify the matter - I think he will see under 2(1)(b), it says: "The use or threat is designed to influence the States of Jersey" and that was the concern that he had. That was in the existing law and it has transferred the same terminology into the new law.

[15:30]

**The Greffier of the States (in the Chair):**

All those in favour of adopting Articles 1 to 7, kindly show. Those against? They are adopted. Chief Minister, Article 8 has 2 amendments to it. I assume you wish to propose that Article as amended. Are Members content to proceed in that way? Are you able to propose Article 8, Chief Minister?

**10.3 Senator I.J. Gorst:**

If I could do, Sir, thank you, yes.

**The Greffier of the States (in the Chair):**

Is that seconded? **[Seconded]** Does anyone wish to speak on Article 8 as amended? All those in favour of adopting Article 8 as amended, kindly show. Those against. Article 8 as amended is

adopted. I think we can run through, if you are happy, Chief Minister, from 9 to 30. There are amendments to 31 and 32. Do you wish to propose Articles 9 to 30?

**10.4 Senator I.J. Gorst:**

Sir, it is probably better if I do not endeavour to try and speak to those individual Articles but simply propose 9 to 30 and I will try to answer any questions arising, Sir.

**The Greffier of the States (in the Chair):**

The Articles are proposed. Are they seconded? **[Seconded]** Does anyone wish to speak on Articles 9 to 30? All those in favour of adopting those Articles, kindly show. Those against. They are adopted. Similarly, Article 31 on page 43 is subject to an amendment. Do you wish to propose Article 31 as amended, Chief Minister?

**10.5 Senator I.J. Gorst:**

If I could, Sir, thank you.

**The Greffier of the States (in the Chair):**

Is that seconded? **[Seconded]** Does anyone wish to speak on Article 31 as amended? Deputy Young.

**10.5.1 Deputy J.H. Young:**

Yes, I am sorry to do this but I would like to clarify my question asked before. I do not have the redline version. I will have to do my best. Article 31 replaces Article 34A in the current 1999 law which deals with failure to disclose knowledge or suspicion of money laundering. We have a new provision. This Article 31 replaces it with new words. The current law in Article 34B provides for defences, i.e. that; "A person charged has a reasonable excuse for not disclosing but the case of a person who is in employment is a defence to a charge that the person disclosed the information or other matter in question to the appropriate person in accordance with the procedure established by the person's employer." Those are important protections in 34B. I could not see anything on this Article that makes it clear whether that defence is in or out so I would like specific confirmation please. Is the protection at present afforded by the old 34B maintained in what we are being asked to approve here?

**The Greffier of the States (in the Chair):**

Does any other Member wish to speak? I call on the Chief Minister to reply.

**10.5.2 Senator I.J. Gorst:**

It is but perhaps the Deputy would be more satisfied if he heard it directly from the Attorney General that it is.

**The Attorney General:**

If Members look at the consolidated amended version that has been provided and at specifically page 46, Members will see that the statutory defences in 34B remain unchanged.

**The Greffier of the States (in the Chair):**

Very well. All those in favour of adopting Article 31 as amended, kindly show. Against? That Article is adopted. Similarly, you propose Article 32 as amended, Chief Minister?

**Senator I.J. Gorst:**

If I may, Sir, thank you.

**The Greffier of the States (in the Chair):**

That is seconded. **[Seconded]** Does any Member wish to speak on Article 32 as amended? All those in favour of adopting Article 32 as amended, kindly show. Any against? The Article is adopted. Do you wish to propose the remaining Articles and the schedule together, Chief Minister?

**Senator I.J. Gorst:**

If I may, Sir. Again, I will endeavour with the support of the Attorney General, to answer any particular questions which may arise. Thank you.

**The Greffier of the States (in the Chair):**

Articles 33 to 52 on the schedule are being proposed. Are they seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting those Articles in the schedule, kindly show. Any against? They are adopted. Do you propose the Bill in Third Reading, Chief Minister?

**10.6 Senator I.J. Gorst:**

I do, Sir. As I tried to say in my opening comments and in answer to one or 2 questions, the way that we show that we are compliant with anti-money laundering requirements and with the countering of the financing of terrorism requirements, is one of the key factors around gaining financial services equivalence in the E.U. and the way that we deal with these issues and how we are related allows us to have access to European markets and it is that equivalence that that access is based upon. Therefore, as I appreciate this is quite technical, these are important changes and I am grateful for Members' support today and I hope that they will continue that support in Third Reading. Thank you.

**The Greffier of the States (in the Chair):**

It is proposed in Third Reading. Is that seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting the Bill in Third Reading, kindly show.

**Senator I.J. Gorst:**

Perhaps we could have appel please.

**The Greffier of the States (in the Chair):**

The appel is called for in Third Reading. If Members are in their seats, I will ask the Greffier to open the voting.

<b>POUR: 36</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.C.L. Baudains (C)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				

Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

## **11. Draft Income Support (Amendment No. 10) (Jersey) Regulations 201- (P.1/2014)**

### **The Greffier of the States (in the Chair):**

We come now to the Draft Income Support (Amendment No. 10) (Jersey) Regulations 201- and I ask the Greffier to read the citation.

### **The Deputy Greffier of the States:**

Draft Income Support (Amendment No. 10) (Jersey) Regulations 201-. The States, in pursuance of Articles 5 and 18 of the Income Support (Jersey) Law 2007, have made the following Regulations.

#### **11.1 Senator F. du H. Le Gresley (The Minister for Social Security):**

I am bringing this proposition today so that my department can meet its obligations under the Housing Transformation Programme. This programme, which was agreed by Members, is P.33 of 2013. It allows colleagues in the Housing Department and in the Treasury and Resources Department to take important steps to increase the quality and general provision of social housing in Jersey. I am required to facilitate these important steps by making a number of small changes to the income support system and, thereby, to continue our responsibility as Government for helping Islanders who are living on low incomes. These Regulations allow my department to change the ways that the income support assists social housing tenants with their rental costs and to provide a fair level of assistance to eligible low income families renting properties in the private sector. These tenants in the private sector are, in the main, waiting for or are unable to access the Island's limited pool of social housing and so it is only right that they continue to receive help towards their rental costs through income support. The rental component of income support has always matched the fair rent levels set by the Housing Department but with the incorporation of that department into

a housing company, the responsibility for setting reasonable social sector rent policy will move to the Strategic Housing Unit. These Regulations therefore replace the list of fair rents with the ability to pay any reasonable rent that is charged by a regulated social housing provider. We have used the definition of “social housing” that covers the former Housing Department and those housing trusts which have come to an agreement with the Treasury on rent policies and financial returns. Any increased rental income received by social housing providers will be used to fund improvements to stock and new-builds. It is estimated that 67 per cent of States housing tenants are income support householders so 67 per cent of new rental income will be funded through income support. The Minister for Treasury and Resources has agreed to fund growth in income support expenditure arising from the Housing Transformation Programme in future Medium-Term Financial Plans. These Regulations allow my officers to ensure that rents are reasonable and to limit payments towards any that fall outside of that definition. Those trusts which remain unregulated will be treated similarly to private landlords. From the perspective of social sector tenants on income support, the Regulations will enable the Housing Transformation Programme to proceed without reducing their weekly incomes. Existing tenants will see no changes but will receive annual increases at R.P.I. (Retail Price Index) plus 0.75 per cent. New tenancies will be charged rents set at a figure of 90 per cent of what those individual properties would command in the open market. In each case, assistance from income support will increase in direct proportion to rents. The progression to 90 per cent of market rates will permit the social housing providers to receive a rental income that better reflects the value of their properties and allows them to reinvest in the social housing stock of the Island. Turning to private sector rentals, a consequence of the removal of the fair rent for social housing properties is that the rates paid to income support households in the private sector are to be established separately for the first time and also increased. The pressing need for an increase became apparent following independent research by Michael Jones of the Cambridge Centre for Housing and Planning Research which was published as R.44 of 2013. This research is summarised in part 3.3 of the report accompanying this proposition. It established that the historic process for the annual increase of States housing rents resulted in fair rent levels that did not reflect the true cost faced by 56 per cent of private sector tenants and he strongly recommended that increased support was made available to them. The new rates proposed have been calculated according to 95 per cent of the market average for a comparable property in the Housing Department stock. It was initially proposed in R.44 that these rates would represent 100 per cent of the market average but during the intervening period there has been a significant increase in the order of one-third of the number of income support claimants renting in the private sector due in part to the recession and high unemployment. In order to remain within the additional full-year budget of £1 million, agreed in the Medium-Term Financial Plan for the upgrades, I am proposing today to limit the increase in the private sector rental components to 95 per cent of market value. Nevertheless the maximum rent levels now proposed represents a fair subsidy for the majority of households who are either waiting for or unable to access social housing, and so are required to rent a property of a similar standard in the private sector. Some Members may have legitimate concerns over the potential that any increase in private sector rent subsidies could benefit landlords rather than low income tenants. So part of the research we commissioned was directed to investigate the effects of income support subsidy on the private rental market, 20 per cent of which is made up of households receiving some level of assistance through income support. The results are reassuring, demonstrating that although Jersey’s private rental market is comparatively expensive at the higher end there is no evidence that landlords at the lower end of the market are increasing rents according to the maximum that income support will pay. In fact, 44 per cent of current income support households in the private sector pay rent on properties that are less than the maximum housing component that they could receive as assistance towards rent. The proposed

new private sector rent level rates, which are set out on page 16 of the Report and Proposition, will increase that proportion to about 60 per cent. Today we are also taking the opportunity to clarify the rules that deal with situations where a property is shared by multiple households or where a property is occupied that is larger than the needs of the income support household living in it. Existing income support rules already cover these situations providing a reasonable time for people to downsize to a smaller property, but thereafter restricting the rental component to the value of a smaller, more appropriate property. In cases where a property is shared by multiple households the proposed Regulations clarify a method that allows for the appropriate housing component for a property to be divided according to the number of eligible households who share it.

[15:45]

The Regulations take account of situations where households share a property as members of the same family or with non-family members. So these Regulations simply formalise those existing rules, continuing to satisfy the important principle that tax-funded benefit should only assist people with a property that is appropriate to their needs. I would like to re-iterate that this proposition comes about as a direct result of the principles that were approved by this Assembly last year in P.33, and fully explained in report R.15 of 2013. The Health, Social Security and Housing Scrutiny Panel received a briefing on 17th March 2013 from Mr. Michael Jones of the Cambridge Centre for Housing and Planning Research. The effects of income support on the private rental market were discussed and this was followed up by a further private briefing on 14th January of this year. To date, no further issues have been raised by my panel. Extra funding for private sector tenants in receipt of income support has already been agreed in the current Medium-Term Financial Plan. The Housing Department expect to commence charging new tenancies at 90 per cent of market rates from 7th April and the new rate for private sector tenants will commence at the same time. I propose the principles.

**The Bailiff:**

Are the principles seconded? **[Seconded]**

**The Connétable of St. John:**

Could I declare an interest being a landlord of a number of properties in the private sector?

**The Bailiff:**

Very well. Does any Member wish to speak on the principles?

**11.1.1 Deputy A.K.F. Green:**

I thank the Minister for Social Security for bringing this proposition and, as he said, it is part of the co-ordinated development and implementation of the Housing Transformation Programme. I thank him for a clear explanation. I will now seek to explain more why this is so necessary, starting with social housing, and then discussing support for those in need in private rented accommodation. Like the Minister for Social Security, I would like to remind Members that in approving P.33 last year - the Reform of Social Housing - we have already agreed to the rent policy of near-market rents. That is 90 per cent of market rates. The Minister for Social Security was also asked to take the necessary action to bring this into place by April of this year, and that is precisely what the Minister for Social Security is doing. These Regulations will enable people in the social housing qualifying for income support to pay near fair rents as they enter into new tenancies. Some statistics: the States housing rents on average at the moment are 70 per cent of market rate and nearly one-third of our tenants do not qualify for the housing component of income support. This means that a large proportion of our tenants receive subsidised rent even though not qualifying for

income support. It is correct, as we debated in P.33, that this hidden subsidy is removed. Rents on new tenancies will be set at 90 per cent of market rate as agreed by this Assembly. These Regulations will enable income support to be provided to those who need the support with these rents and it only relates, as the Minister for Social Security reminded us, to new tenancies. The change will be gradual and existing tenancies will be protected. This will gradually bring the support for housing costs under the ambit of the income support scheme and provide a sustainable basis for the provision of social housing, enabling us to address the under-funding that has taken place over many years. This is sound. This is joined-up government, and it is complemented by the establishment of the Strategic Housing Unit. Headed by the Minister for Housing, the Strategic Housing Unit will guide the whole range of housing policies in the future, including regulation. It is worth, again, looking at other statistics: a quarter of our States homes require improvements to meet the basic decent homes standard and we have over 700 families on the Gateway in the highest priority bands waiting for housing. I think we would all agree this is not acceptable. We discussed this in P.33 and decided the way ahead to put that right. Supporting this Regulation means that existing properties can be improved and maintained, and new properties developed. In short, it opens a door to improvements of the standard of living for many Islanders. While some will argue - and I can appreciate why - that there are other ways to do this, actually there is not. We have looked at many ways to do it. This is the only one that stacks-up. There are limits on the ability of the taxpayer to support people in social housing and the principle is a straightforward one. Those who can pay should. Those who cannot will be supported. The business case supporting the Housing Transformation Programme, which included some £250 million of additional investment in social housing, explained what would be achieved. Nearly 600 properties managed by the Housing company will be refurbished. Over the next 10 years all social housing tenants will have homes that meet the Decent Homes Standard, including being cheaper to heat and run. 600 new homes will be available to Islanders waiting on the Affordable Housing Gateway and this is all based on a robust business plan underpinned by the new rent policy. It may also help Members if I translate this into a specific site just to illustrate what we can achieve. The proposed new Ann Court development, which is planned to be developed by the Jersey Homes Trust, requires a financial model that relies on this change. The rent policy, the increasing rent deals, means that urban sites such as these and rezoned sites, should they be approved in the draft Island Plan, are delivered to a proper standard. For example, with underground parking where needed, without needing capital subsidies. This will enable us to unlock sites for development as the opportunities arise. This Regulation also deals with under-occupancy. It provides income support payments at 90 per cent of market value of the right type of property that is needed. That is to say, that people who are over-occupying - to use the technical term - will be protected until such time as we can offer them a suitable accommodation, but that is standard practice now. In terms of actual example, if you occupy, or intend to occupy, a 2-bedroom flat but are only eligible for a one-bedroom flat then they will receive the weekly amount equivalent to 90 per cent of the market rate for that one-bedroom flat. As I said before, there is protection for tenants on the Housing Gateway, waiting for smaller properties. The Social Security Department will continue to pay income support to meet the cost of properties that they are occupying until suitable accommodation is made available. I think I have said enough about social housing but this does take me on to the equation of the private sector, and I have to say I think the work that Mr. Jones has done is excellent in explaining how income works there. Clearly, it cannot be right that we provide a better standard of living for people in the social housing sector without recognising that many people who live in the private rented accommodation also need help. It is not right that the housing components of income support is commonly not enough for people to meet the costs of their rent. 56 per cent of private sector tenants are not properly supported and they have to pay the difference themselves. That

cannot be right that people use their basic income support living allowance, which we give them to pay for essentials such as food, heating and clothing, to top-up their rent because their housing component fails to meet the level. For myself, I cannot see any other way of rectifying this other than increasing the rent component of the income support for people in the private sector. Simply, while it is true 600 new homes will be available - and I am sure we all welcome that - on the Housing Gateway through these changes, relieving pressure on the private sector, there will still be need for people to be housed in the private sector. The new rent levels are not generous but they are linked to the average rental value of a unit in the social housing sector. I know that people have concerns around this. I know Members have concerns and some argue that landlords will simply increase their rents so benefits go not to the tenants but to the landlord. I have to say, until I saw the work from Michael Jones, I was one of those people that was in that camp. The evidence that Michael Jones has got does not support this. The analysis commissioned by Social Security Department from the Cambridge Centre for Housing and Planning was undertaken, as I said, by Michael Jones. I know this man quite well and I cannot think of a more expert source, and I will recount 2 key facts that came from that research. I think the Minister for Social Security mentioned that as well. Fewer than 20 per cent of private rental market are households in receipt of income support. They are therefore not a dominant proportion of the market. 44 per cent of that 20 per cent are people who are being supported in rents that are below the income support ceiling. Why then do landlords just not increase their price? To quote Mr. Jones: "In practise, private sector rents do not cluster around the income support limits." I think the conclusion that was reached by Mr. Jones is worth recounting at length. You would have seen in his report: "Given the current distribution, relatively small proportion of private rental properties occupied by income support tenants, there is no evidence to suggest that the relatively small adjustments made in the maximum income support levels available have any significant impact on rental levels in the private sector." I support that conclusion. I support the greater help for private sector tenants and a more sustainable model for social housing. Indeed, without this our ability to deliver our stated and agreed strategic goals around housing drift away. We cannot afford for that to happen. Finally, I want to remind Members that we have already made this decision in principle. We asked the Minister for Social Security to bring this proposition forward. He is now doing that. He is now implementing that decision. We should be proud. Proud of the real benefit that this will bring and we have all worked together to deliver this change.

**Deputy J.H. Young:**

Apologies for being late, I need to declare an interest and withdraw, having just read the Standing Order. A member of my family has a property with rental.

**The Bailiff:**

I do not think it is a direct financial interest. This is to do with the level of income support. By all means declare it as a financial interest but there is no need to withdraw. It is not a direct financial interest.

**11.1.2 Deputy T.A. Vallois:**

In recognition of the way that this Assembly voted last year on P.33 and the Housing Transformation Programme, I have to state now that I am reluctantly going to be voting for these Regulations and the reason why I state "reluctantly" was because a big part of my concern of P.33 was in fact the 90 per cent rents policy, notwithstanding what the Minister for Housing has just stated and what the Minister for Social Security has openly spoken about in his opening speech. I find this extremely difficult to support, however I do not think mistakes that this Assembly makes

are right to put on the person at the other end, being the member of the public that is in need and is there to be helped by us who have been put in the position to help those. My particular concern, and of course it has been mentioned many times, was the independent or commissioned report, R.43/2013. What was not mentioned was, since the analysis of that was undertaken with regards to the private sector, 1,521 private sector income support claims, there has been a considerable growth in the number of income support claimants renting in the private sector, and it is possible that we will continue to see that growth. My concern is this is the first step towards a considerable increase in income support going forward due to our agreement of P.33/2013. What we have done is put the cart before the horse and when we state about we cannot expect people living in social housing to be living in a better condition than those who live in private sector housing I agree, however why did we agree the ... no, I agree that everybody should be living in a good standard of accommodation but why is it that we address social housing as a first and foremost, and peg that at market rents but not address the real and difficult position that private sector regulation, which we have not looked at, has been sitting in the way that it has for over 20 years, as far as I know, or even longer, and instead of addressing that first we go gung-ho towards addressing the social housing.

[16:00]

Yes, it needed to be addressed, and yes, it has needed to be addressed for a long time but I think we have gone completely the wrong way around it. I still maintain that position. I will continue maintaining that position no matter how many times the Minister for Housing repeats himself about what a wonderful thing we are doing for housing in the Island. I have to also state that I do, to a certain extent, for the first time I think in my 5 years in this Assembly, feel sorry for a department. I feel sorry for the Social Security Department, the Minister for Social Security, because again being put in the position that he is expected on the one hand to make cuts here, there and everywhere, and on the other hand, expecting to give more and more money to Treasury, more and more money to Housing, to build up a bigger portfolio for them and he is left in an extremely difficult position but yet is cornered when is required to look at working together to ensure that rent increases prior to creation of regulatory powers will be measured and proportionate. All I can say is I really do hope that is considered fairly and objectively between all 3 Ministers. Finally, on the note of the Regulations, what I will say and commend to the Social Security Department on, is addressing the multiple household sharing a property situation where I have seen situations in the past of what would be classed as multiple households but they are all part of what we would class as the same family, and people wishing to live together because they want to care for each other or whatever it may be, whatever the circumstances may be, and I am grateful that the Social Security Department has recognised that under page 10 of the Report and Proposition. All I can say from this point is, as I said, I reluctantly am going to vote for this and thank the Minister for Social Security for his work in putting this together. But what I will ask the Minister for Social Security to just clarify a position on, is on page 5 of the Report and Proposition where it talks about: "Given that the full year allocation of £1 million to fund this additional support has already been agreed within the Medium-Term Financial Plan it is proposed to limit the increase in the private sector rental components to 95 per cent of the market value rather than the 100 per cent level originally envisaged in R.43/2013", the report that was independently commissioned and done by Mr. Jones that was mentioned by the Minister for Housing: "The analysis of income support recipients in the private rental market is explained more in detail in section 3.3." But I was wondering whether the Minister for Social Security could just expand on that 5 per cent difference, the reasons why he could not obtain the extra money considering that the Treasury and Resources Department do have a contingency funding to consider any situations that they may find themselves in this position.

### **11.1.3 Deputy M. Tadier:**

While I accept that the principles of this have already been debated following on from the last speaker, I do not accept that there is not an alternative way, which is essentially what we have been hearing from the Minister. The Minister has essentially said that he feels that this is not ideal but there is a consequential increase that we are having to put out in terms of income support spending because of a policy we have adopted of 90 per cent rents of market rate. It always comes back to the point, in my opinion, that the 90 per cent rate is an incorrect starting point in the first place, and therefore everything else following on from that is necessarily wrong. I will be making the argument that just because we have made a wrong decision in the past does not mean to say we have a second wrong decision, i.e. it is okay to be wrong as long as we are consistently wrong. I do not accept that at all. The Minister said that there is no alternative and we have been struggling for years now with essentially what is rent rebate. Who does rent rebate ultimately benefit? Who does the lack of social provision, whether it is trust housing or actual departmental housing, who does that lack ultimately benefit? If tenants are renting in the private sector who would otherwise be in the housing sector, who often do not even qualify, as the Minister has openly told us, because the criteria are very narrow. So if you are single, healthy, married couple between the ages of 25 and 65 who are low income you will not probably qualify for housing anyway. It is of course the landlords who benefit from this. When demand exceeds supply it is the landlords who ultimately benefit. The alternative is, if Members will listen with an open mind, rather than saying we base rents on the private sector, which are not *per se* fair. There is nothing to say that the private sector rents, the open market rents, are fair. They are dictated by market forces and we know that when demand exceeds supply you will necessarily have high house prices, not the other way round. Why do we not first of all say if we are going to use taxpayers' money to essentially give back to landlords who in an ordinary situation would not necessarily be able to rent their properties out to these people without subsidies from the States, because they would not have the money, they would be forced to drop their prices. These prices are kept high because the subsidies are available. To say, it does not matter what the expert opinion, that this is not going to have an impact on prices in the private sector is frankly laughable. That is why quite rightly I think we have had Members declaring an interest because they already feel uneasy, I would surmise from that. But what we should be doing is we set up a regulatory service and we say: "If at the very least you want to be part of a system as a landlord where we give money to tenants to then pay on to you for rent, you should subject yourself to a registration process. You should register with the department, and we will come and inspect your property to make sure that it meets a minimum standards criteria", which we already do for lodging houses. Clearly it can be done, and that is administered by the Health Department, it is being looked at to move it to the Housing Department. Secondly, we set some kind of rent control. We say: "Okay, we accept that you are renting this to somebody who is an income support claimant. We are paying the rent for them. Therefore we will have a say on the quality of housing which would otherwise be provided by the Housing Department, but which cannot be ... you are essentially acting as a proxy for us given that there is not sufficient housing supply at the moment." So we want to ensure a minimum standard and a maximum rent that can be paid, which is what the Housing Department would do themselves. They would not act in the same way as the private sector. When that is done then we can move on to this system. So we peg social housing rents and the income support levels with fair rents, we pin the private sector rentals and we bring in rent control. That is the way we would do it. On top of that we establish a register of landlords so that anybody who wants to rent out property in the Island has first to register and then is first to have their properties inspected, so we have a minimum standard throughout the Island and then ultimately it does not matter and we bring in rent control. That may seem a step too far for many in this Assembly but I would ask the question, when we have a housing crisis, which we currently do, and which we have historically had as well, there is a demand and I would say a duty

on government to take serious action in this regard. That is the alternative. That is what we should be doing, that is what we should have done, and that is what I will be continuing to fight for. So I cannot accept these proposals because it forces more people into dependency rather than fewer people. It increases the income support burden, which I think everyone in this Assembly wants to keep down. There needs to be a net there. We are forcing more people into dependency and we are forcing up the income support bill. Is that what we were elected to do? Is that what our constituents asked us to do? I think many of us made promises to reduce States spending. Others made promises to make sure that the most vulnerable in our society will look to us and to make sure certainly that public spending was well-targeted and if it did need to increase it needs to be done correctly. Why is it only pegged at 95 per cent of the average market rentals? What if the only property you can find that meets your needs, perhaps because you are in a particular catchment area for school? We know that in different parts of the Island there is different demand and it is very difficult. I know from having to look for rental properties in the past in the St. Brelade area that it is a very highly sought after area because of the good performing nature of the school there. Why is it pegged at 95 per cent? Why is it not done on a case by case basis that if that property is the only one you can find that income support will cover your full rent? There are lots of questions here to be asked. I frankly would like this to be pulled in for Scrutiny. I do not know if that is the case at the moment, they have got lots of work to do. But maybe it is something which is so deeply flawed that it cannot be amended that quickly. I cannot accept this because I believe that the underlying principles are flawed and that we need a fundamental rethink of our housing policy. One final point: the tenants already pay fair rent, historically and currently. What they pay covers their rents and it should cover their maintenance as well. But we know that historically the money has been creamed-off to go to the Treasury Department. It has essentially been used to put into the pot to pay for other services, and then the Housing Department has found itself in a position where it has not had enough money to pay the rent. So we have to have this new structure created. That is not the tenant's fault. If tenants had been living in social housing for 30 years potentially without any assistance from the Parishes in the past or from income support, they have been working hard in their own jobs, paying their rents, States policy and a States mismanagement of money has meant that now they are in a position where they have to see their rents going up again because the maintenance has not been done in the past. What kind of fair deal is that for our hardworking community? It is not a fair deal. I think this is a flawed piece that has come to us today. The only bit I can support, which is entirely sensible, is 3.5, about multiple household sharing property, because that clearly is a good way forward. Many people nowadays will choose to have a house share. Certainly if you are renting you can often get a much better deal if you are willing to have *co-location*, as the French would say, and you can get a much better deal if you are willing to share your living space and you can invest your money much more effectively. That is certainly a good thing but we do need a fundamental rethink about housing policy and the way that we are haemorrhaging money potentially and benefiting wealthy landlords without first putting in the minimum standards and some form of rent control and independent inspection system.

#### **11.1.4 Deputy J.A. Martin of St. Helier:**

Firstly I must declare an interest. I am a States tenant, but none of these benefits at the moment - at the moment - affect me. I really follow-on from Deputy Tadier and I feel in the same position as Deputy Vallois, do we make a bad decision we made even worse? I listened to both the arguments of the Ministers for Social Security and Housing and an additional £1 million - and let us not be worried that we are putting in another £1 million into private landlords' pockets because, well, they are jolly good fellows, are they not? No. Have a look at page 8. There are already 56 per cent of tenants in the private rental sector above the housing income support component - already above.

So they are already jolly good fellows because they know a 3-bedroomed house in the social sector, what their person can pay. Let us say it is £300 a week. They are already charging £330 a week. So let us not be of the illusion that they are very good people, are they not? They are in it for the money and why would they not be? A lot of them are buying to rent because they are getting more money than they will in the bank. Secondly, where Deputy Tadier was talking about let us bring in this Regulation and look at the actual house - now, I might be renting a nice 3-bedroomed house in the private sector that has indoor plumbing and heating for the same price as somebody who is renting it with no heating, damp, everything else that I and a lot of the other Deputies have seen in bad housing standards. There is no facility now. There was when we first introduced private rent rebate. If somebody wanted to rent their private place somebody would turn up on your doorstep because I would go to them and, as Deputy Tadier said, they were registered and they were able to rent their property and get the private rent rebate. It does not happen now. So where are we fair? Everyone keeps congratulating the Minister for Housing. We have solved this problem. I have not seen any houses built. I have 600, 700 more people on the waiting list and nothing is happening; and I have been looking at this problem for 20 years. We are now calling it a Housing Property Development Company and borrowing millions and millions of pounds from the banks. So we have the problem solved. My real biggest concern was when were you were going to pull wool over somebody's eyes, Minister for Social Security? The Minister for Social Security should remember.

[16:15]

He stood up in this House only 4 weeks ago and said he was cutting his money by stopping every other component and he has frozen it last year and he is freezing it this year. So if you look on page 8 and the penultimate paragraph, it says: "765 tenants will still need to meet part of their rental costs from their remaining household budget." Many of these are the other components; and do not be fooled by the 765 tenants. If you translate to single parent 2 children, 2 parents one child, we are talking about 2,000 or more people living in this rich Island having to go into their gas money, into electric money, into their food money, into their clothing money just to pay the difference in rent. So do not tell me we have solved this problem. We are making private landlords easily £1 million better off today, and we are not doing anything for the people who are borrowing Peter to pay Paul. I am in a very, very difficult position here because, as you say, when you start the ball rolling down the wrong hill, you keep chasing it until it falls off the cliff, and I am not sure whether I want to jump that far. But I will listen to the arguments of the Minister summing-up. Please do not tell me these are not the same people that he has just frozen for the second year, every other household component. I will leave it there.

#### **11.1.5 Deputy G.P. Southern:**

I thought that might be the order, yes. Where to start on this? What we voted for previously which this amendment to Regulations is designed to fit was not a new model for social housing on this Island. It was the old one revamped. Because if you look over the first 30 years of the new housing body, whatever it is - company, corporation - and the £1 billion worth of rental income that it has, you think: "Oh, jolly good. That can be spent on housing, presumably, apart from the half billion pounds in that 30 years which goes straight back to Treasury." So what was the old model that was broken? Remind me. Oh, yes, we were paying substantial sums back into Treasury and not into Housing, so all our housing fell into disrepair and needed refurbishment. What are we doing this time? We are paying half our rental income back to the Treasury in order that ... how are we going to pay for the refurbishment for the new improvement of our houses? Why; we have an answer to that: we will put up rents. Simple as; easy. We will just put up rents from around an

average of 70 per cent of the market value to 90 per cent of the market value. Crikey. I am no financial genius, but I could make that scheme work. That makes money hand over fist. So the social renters are paying for their improvements to their housing stock to make sure they do not fall down and they are in good condition through increased rents. But we decided if we are going to subsidise those in social housing, the very bottom of the pile, the poorest in our society, then we ought to treat those in the private sector equally, or at least similarly. Now we are told repeatedly that of course the existence of rent rebate does not stoke rental inflation. Absolutely no connection between the 2 because 44 per cent are below the current fair rent, and 60 odd per cent are above. You look at that and you think: "Hold on. Now how is that grouping? Where are these houses that are ... where is this accommodation that is above?" Is it the luxury end or is it the ordinary end that we are talking about to make a fair comparison? Is there any grouping? Have they taken the outliers out of the equation? I did not see that in Mr. Jones' work. I did not see a statistically sound analysis of exactly what the distribution was. I saw this rough and ready 44 per cent below, 67 percent above. Therefore there is no connection. Simply do not believe it. That analysis was shallow in the extreme. The Minister for Housing might have been taken in by it, but I certainly was. We listen to the words - listen to it very carefully: "Given the current distribution and the relatively small proportion of private rental properties occupied by income support tenants there is no evidence to suggest that relatively small adjustments in the maximum income support levels available will have any significant impact on rental levels in the private sector." Relatively small adjustments. Then just opposite that, that is on page 9; that is the quote from Mr. Jones. Then on page 8, right opposite, let us pick one of them. A 3-bed house; current fair rent £272.79. Proposed maximum weekly private sector support £324.24. That is around about £50 more and that is described as small adjustments to the level of support. Well, I am sorry. Perhaps Members can understand my scepticism when I look at those words and say: "That is relatively small." Is it? Where you take home minimum wage today of £250, £260 a week and yet your rent maximum support and your rent levels are up by £50. So the payment of an extra £1 million on top of the £7 million we already pay to private landlords is not going to increase their rent levels. They are not going to think: "Ah, ha. We can take a little more" while they see in the so-called social sector rental levels going up by R.P.I. plus 1 per cent - R.P.I. plus one. So the States are again increasing rents happily while of course the private sector will not do similar. We will not see private sector doing R.P.I plus one, will we? Because somehow they are mentally defective. They have not noticed that you can do that, and the States is doing it anyway and showing the lead. "Come on lads. Pile in. We are." That is what we are saying. We are stoking rent inflation while freezing income support for those worst off for the second year. Caring, sharing Co-op, we are not. It comes down to, as Deputy Tadier reminded us, supply and demand. The supply is not there. The supply in the figures under the Housing Transformation Plan is extremely limited. The whole Transformation Plan was done and performed and produced for Members without a single reference to population growth. As I was asking the Chief Minister yesterday, where are the population growth figures in there? An additional 600 houses by 2016 under the Chief Minister and his Ministers' plans to add to the 700-plus that are already on the waiting list for social housing which we do not have. Some system. Of course the giveaway I think is given on page 7 of this in-depth research that has been done has now already had to be adjusted, and adjusted quite substantially. We see at the bottom of page 7 for example, the income support reports for 2011 and 2012 show a net increase of 249 income support claims over a 12 month period. So that is 250 increase on 1,500 claims for those living in the private sector. Why are we seeing increased claims in the private sector? Because we cannot fit them in the social sector because we do not have enough houses. So that is a something like a 17 per cent increase - one-sixth - in the number of claims already. But we are told we do not have to worry about that because we will adjust the

numbers, and instead of going for 100 per cent in the private sector support, we will only go for 95 per cent. So we have already changed the model that we had less than a year ago. We do not have to worry about that though, because this is a temporary increase in the number of private sectors tenants supported through income support. It is likely to be linked to the current poor economic climate, improvements in the local economy and an increase in the number of social housing units available as the Housing Transformation Programme is implemented should reduce the pressure in this area over the next few years. Oh, really. Well, we have the Minister for Treasury and Resources being his usual optimistic gay self as he chirrup away that we are in recovery. Have you seen recovery? I have not seen recovery. I have not seen recovery in the finance sector. I have not seen recovery yet in the retail sector. I have not seen recovery in the construction sector. But according to this we do not have to worry about this large increase in the number of private sector tenants on income support because the recession is officially over, according to the Minister for Social Security. He knows that because the number of unemployed went down slightly for the first month in about the last 36 recently and that is obviously the key signal for him that the recession is over and the recovery is on its way. All sorts of reasons not to vote for this. It is set out in the wrong direction. It is undoubtedly inflationary in terms of rent. It will be inflationary in terms of rent. The policy says it is going to be R.P.I. plus one for the state sector. Build that over 30 years; that substantial galloping growth of rentals, and the private sector of course is not going to join in. Why should it? They will content themselves with keeping rental levels down and doing the work that the Social Plan should be doing anyway. I do not think so. This is a recipe for house price and house rental inflation. Absolutely sure as eggs is eggs that is what we are going to see. If we vote for this then that is what we will guarantee.

#### **11.1.6 Senator A. Breckon:**

When I looked at this I thought what it is really doing following on from P.33 is turning up the volume, and others have mentioned it has been really a failure to maintain States properties and to build ones and it is falling back on tenants, public sector and private, to fill the gap. We are still going to have this revolving door between Social Security, Housing and the Treasury. We are still going to have this massive, what I think is unsustainable, money-go-round. The music is going to stop one day. It is a bit disappointing. I can understand the Minister for Social Security's concern. He has spotted the fact that what was proposed was not do-able. The 100 per cent was not do-able. So instead of asking the Treasury for a few pounds more we have cut the amount to the private sector from 100 to 95. Bearing in mind a lot of the money as Deputy Southern has just pointed out goes back to the Treasury, he could have asked the Treasury because it would have just been like taking it out of one pocket and putting in the other. So they would have got the money back in effect one way or another. Just a point or 2 from what is in the report. What concerns me is the reality of somebody's situation. If Members look on page 8 there is a table there and for a one-bedroom flat we look at the average weekly market value of current Housing Department properties: it is near enough just £191; just a few pence short. We are proposing that the private sector will be £181. Now the Minister for Housing will know that about half of the tenants are pensioners and assuming they receive the maximum pension, it means that if they have to pay the rent they would probably have enough left to get some fish and chips on a Friday night.

[16:30]

That would be it. Finish. So the reality is the pensioners' real money. Therefore their fall-back position is income support and I know many are not too comfortable with that, but that is really where we are. Although we have agreed P.33, and this is a follow-on from this, and like others I am between a rock and a hard place because we have made this promise to follow on. But where is

it going to lead? I am not sure where that is. As I say, we have this massive money-go-round which satisfies some. It gives money to Housing to do things that they have not been able to do for years, mainly because they have given tenants' money to the Treasury - not their money, tenants' money to the Treasury. The last time, I remember a Scrutiny review we did, the advisers we had, they reckoned that the subsidy element for States tenancy was about £50 a week that was going back into the system to subsidise others. These are people who do not have much themselves that are subsidising a system. So some time in the not too distant future this whole thing is going to have to be reviewed again. We have set up a housing company. You know, we are going to throw money at them now that they have not had. So all is going to be well. But as other Members have pointed out, just putting money in the system is not the answer. The supply and demand issues as Deputy Tadier mentioned; I, like others, am slightly uncomfortable with this. But as night follows day this has followed on from P.33 and not to vote for it is letting down people who cannot afford the places they live. Sometimes that includes people with and without qualifications because we have this 5-year qualification for income support. So there are people in need of the money; but there again, where does the money go, as others have mentioned? I have some reserved support as it was for this, and I will finish with that.

#### **11.1.7 The Deputy of St. Ouen:**

First of all I have some sympathy with the concerns raised by certain States Members who have spoken during the debate. But like other Members I really would like to point them to page 3, second paragraph of the report which clearly sets out why we are here today. It is that we have approved P.33/2013 and we are not here to re-debate that particular matter. Indeed I would not castigate the Minister for Social Security for bringing forward these Regulations because we charge them to do so, and indeed he should be congratulated for bringing the Regulations in before the date that was set by us which was April this year. That is the first thing. Secondly, and I think I am grateful that the Minister for Social Security and his department spent some time with myself and my colleague Deputy Hilton, discussing and talking through these Regulations and basically reminding us, as we did need reminding, that indeed it was a follow-on from and a direct result of the approval of P.33. The only issue that I really am disappointed with is that although we have had a Minister for Housing stand up and extol the virtues and the work done by Michael Jones who focused on the need to support the private sector who indeed are, although we like it or not, our partners in providing accommodation for those who cannot (1) purchase their own homes and (2) access States social housing. Rather than point the finger at them, they are our partners and we decided and it was reinforced in R.44 that we needed to provide not 90 per cent, not 95 per cent, but 100 per cent as support for those that were claiming income support for their housing component. I think as other Members have pointed out already we are told in this report that there are 1,250 - not an insignificant number - of income support claimants that are currently or were housed in the private sector. That has increased by approximately 250 in one year - in the 12-month period from 2011 to 2012. We are told in here although the figures are not there, that the trend has continued. So that is another 250 in 2012 to 2013. That is close to 1,800 people now we are housing or who are being housed, should I say, in the private sector because we do not have the accommodation and indeed, we have already recognised we cannot provide everybody with the accommodation. We need to rely on and work with the private sector. The only problem is that because we have chosen or a decision has been made, and I believe it is not the Minister for Social Security that has made the decision but indeed the Council of Ministers in discussion and dialogue with the Minister for Social Security that: "Ah, well. Because a sum of money was not sufficient that was being allocated in the Medium-Term Financial Plan, it cannot be 100 per cent anymore; it is going to be 95 per cent." That is very, very sad that we organise and promote a social policy that is not

directed to known people in need to whom we have been pointed by expert advisers but because we are short of cash for this particular subject. Good for others - we seem to be able to use magic money up for all sorts of different projects that the Council of Ministers and the Minister for Treasury and Resources propose. But in this case: "Ah, no. It is £1 million. That was the sum of money allocated. Therefore forget about the 100 per cent that the States looked at and agreed as part of P.33 and supported as part of the overall package. We are going to go for 95 per cent." It is too late to turn back, but - and it is a big but - I think that this Assembly should charge both the Minister for Social Security and the Minister for Housing or those that follow to look at the implications both positive and negative that may arise from the implementation of these Regulations over the next 12 months and come back to this Assembly with any adjustments that may be required. I think in that way it may deal with some of the issues that have been raised about the fact that the policy might affect or encourage landlords to increase rent. It might also highlight the fact that the people that we are having to accommodate or have to be accommodated in the private sector are not being treated in an equitable manner when considered against and alongside those that we are housing in our social housing. One last point: part of the reason for the 100 per cent, the difference between the support offered for the social housing tenants and the private sector tenants was that we needed an exit strategy. We have a Gateway, yes, that brings everybody in and considers those that fit the criteria for our social housing. We do not really have any exit strategy to encourage those that properly can afford to move out of our social housing accommodation into the private sector so that others in more need can move in. That is the challenge that still faces the Minister for Social Security and the Minister for Housing that needs to be dealt with. It was raised in our review when we did the Housing Transformation; it was spoken about when we had the debate on P.33, and it is still the problem today. So I hope when the Minister for Social Security sums up that he will give us proper assurances that he will, in conjunction with the Minister for Housing and indeed the Council of Ministers of the day, properly monitor the implementation of this and deal with any matters and issues that may or are likely to arise from the current proposals.

**Senator B.I. Le Marquand:**

I just need to declare an interest. I am also a landlord of residential property

**The Bailiff:**

I call upon the Minister, Senator Le Gresley.

**11.1.8 Senator F. du H. Le Gresley:**

I have to say at the outset that I understand where a lot of the people who have spoken are coming from. When I first because Minister for Social Security it took me a long time, and the Minister for Housing will acknowledge this, to accept that what we were doing with putting more money into private sector was the right way of going forward. Just for that reason really, that we commissioned the report by Michael Jones which has been the subject of many of the speeches, and quite rightly so because that is the report on which we have based our proposals. In particular points have been made about ... we have I think the last speaker, the Deputy of St. Ouen made the point that the Assembly has already agreed to the 100 per cent of the equivalent rents in the social sector as the basis for calculating private sector rents. It is quite hard to say all that, but I think you know what I am talking about. The States did not approve that policy. If Members re-read R.44, which I have here, this was a report commissioned by the Social Security Department which gave us a number of options as to how to use the available money, which was £1 million, and I have just re-read my comments attached to that and nowhere in there did I say that we would be doing

100 per cent of market rents, not in that report. The States have not debated this until now. This is the first time the policy for private sector tenants, because that was the undertaking that we gave when we debated P.33, that I would come back to the Assembly with a policy to assist private sector tenants. I had available through the M.T.F.P. (Medium-Term Financial Plan)... and I should stress that some of that money was held back. It was not given to the department. Next year we will have to apply for the £1 million because it is not going to automatically come into our budgets. But we agreed when we did the budget last year that £750,000 would be made available from contingencies to introduce further assistance to private sector tenants from April. What is absolutely right, and Deputy Southern made a big point about this, is the number is growing and he was underestimating the number - it is not often I want to make the numbers sound bigger - but he was underestimating it because it is over 2,000. As at the end of 2013 the number of private sector tenants we are assisting is 2,008. So the number has grown by nearly a third, that is why I have to say to Members why I did not have enough money to do the 100 per cent. The fact is that you have to cut your cloth according to... or whatever the expression is, I think you know what I am talking about ... and I was not able really to support 100 per cent because it would have cost well in excess of £750,000 this year and probably going into next year even more but with all the rates, here Deputy Martin took me to task for standing up 4 weeks ago, as she put it, and saying I was delivering £3 million of savings. Yes, again, that was a request for this Assembly through the Medium-Term Financial Plan. We have to do things within our budgets. It is not always comfortable but we have to and I had to deliver £3 million of savings by the end of this year, and Members know how I am going to achieve that but the amounts of money that we will be putting, as Deputy Southern said, in the hands of private sector tenants as a result of these proposals, if they are approved today, are substantial sums of money. We have to remember that 80 per cent of our private sector tenants live in one-bed, 2-bed flats or one-bed houses. So the majority of the money that we will be using will be going to those people in that type of accommodation and the increases are, to the nearest pound, for a bedsit £10 a week, one-bedroom flat £16 a week, 2-bedroom flat £28 a week and a one-bed house £21 a week. In the hands of those people who are currently paying more than the fair rent that we were allowing that is a lot of money for those people and Senator Breckon said: "They will be very grateful if this Assembly today votes for this proposition so that they have more help to afford their housing." The very large increases at the upper end, 5-bed houses, for example, £66 increase. Well, the reality is we have very few tenants in the private sector occupying that size of properties, very few.

[16:45]

They will be very much in the minority because, as I say, nearly all, 80 per cent plus, are around the smaller units. I am just trying to reflect what people have asked me. Deputy Vallois wanted to know why I could not obtain the extra money. Well, the reality is I did not ask for it because I had worked within the budgets that I had been allocated. The other thing I need to stress to Members, it was only just before Christmas that we debated the proposition on Long Term Care and we also agreed, this Assembly agreed, that the underspends in Social Security for 2013 - which were mainly in income support as a result of lower levels of unemployment - we would put that into the Long Term Care Fund to make sure that we did not have put up or introduce the new charge until 2015. At the year-end we transferred £11.5 million of underspend from income support into the Long Term Care Fund and States Members voted for that. It was not my decision. You voted for that and that money is now safely there so that we can deliver Long Term Care benefit from 1st July this year. So these are the sort of pressures that we have when you have budgets. You have to save some, you put some aside for another benefit that we will be introducing but, I repeat, what I am doing today with these Regulations is following the instructions given by this Assembly for me to

come back to remove the cap on, particularly, Housing Department rents so that we could allow income support up to the actual rent being paid and also that we would improve the lot of private sector tenants who, as we now know, from the figures I have given you, that just over 2,000 tenants in the private sector receive some amount. They will not receive the full amounts that we show in the table on page 5 or is it page 8. There are very few tenants who get all their rent assisted. This is a component but by the time we have taken away their earnings or other income coming into the household the money that is left is rarely the full rent that they are having to pay and so this will help a lot of people because it will top-up the amount of money they receive. These will be additional amounts and they will be of great assistance to people in the private sector. I hope in that sort of general discussion ... I do want to take Deputy Southern to task because he kept saying that the rents in the social housing sector would be going up by R.P.I. plus 1 per cent. It is not plus 1 per cent it is plus 0.75 per cent. There is a difference which needs to be stressed. So with that I hope I have covered most of the points in a more general way than normal perhaps and I maintain the principles and ask for the appel.

**The Bailiff:**

The appel is asked for then in relation to the principles of Projet 1. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 37</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy M. Tadier (B)		
Senator S.C. Ferguson		Deputy M.R. Higgins (H)		
Senator A.J.H. Maclean		Deputy G.C.L. Baudains (C)		
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				

Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

**Connétable J.L.S. of Gallichan of Trinity:**

Could I also declare an interest of being a private tenant landlord?

**The Bailiff:**

Deputy Hilton, do you wish this matter to be referred for scrutiny

**Deputy J.A. Hilton (Vice-Chairman, Health, Social Security and Housing Scrutiny Panel):**

No thank you.

**The Bailiff:**

Very well. Minister, do you want to propose Regulations 1-4 together?

**Senator F. du H. Le Gresley:**

I would like to have leave to propose Regulations 1 and 2 together and then Regulations 3 and 4 if I may.

**The Bailiff:**

Yes, so Regulations 1 and 2 then.

**11.2 Senator F. du H. Le Gresley:**

Regulation 1 defines the principal Regulations that are being amended which are the Income Support (Jersey) Regulations 2007. Regulation 2 inserts a new definition of what is meant by private sector housing and social housing. Social housing is defined to mean housing provided by the States under the control of the Minister for Housing and subsequently the new company, Andium Homes, that will take over the Housing Department stock as prescribed under Article 2 of the Social Housing Transfer (Jersey) Law 2013. Also falling under this definition of social housing is housing provided by the Jersey Homes Trust, Les Vaux Housing Trust, Christians Together in Jersey Housing Trust and FB Cottages Housing Trust. Private sector housing is therefore defined as any housing that does not fall under the definition of social housing. So I propose Regulations 1 and 2.

**The Bailiff:**

Are they seconded? **[Seconded]** Does any member wish to speak on Regulations 1 or 2? Very well, all those in favour of adopting Regulations 1 and 2 please show. Those against. They are adopted. Then you want to move to Regulations 3 and 3, Minister?

**11.3 Senator F. du H. Le Gresley:**

Yes, again I am going to go through these in quite some detail because it does get quite complicated. Regulation 3 amends schedule 1 to the principal Regulations by introducing new provisions concerning the calculation of the housing component element of income support. They

completely replace the existing paragraph 4 of the principal Regulations although much of this new paragraph 4 represents small revisions and rearrangements of the existing content in order to provide separately for social sector and private sector housing. Sub-paragraph 4.1 shows how the housing component is paid to an eligible household occupying private sector housing. This is the same as the previous Regulations but with new rates. Income support takes into account 3 values and pays the lowest of them. These 3 values are: the weekly rent payable, a rate listed in sub-paragraph 4(2) if the dwelling is an appropriate size to the needs of the household and a rate listed in sub-paragraph 4(2) if the dwelling is too large for the household. If this is the case a value is chosen that represents the type of dwelling that is appropriate to the needs of the household. Sub-paragraph 4(2) lists the values that are paid to different types of private sector housing properties. Apart from the hostel rate these are now based on 95 per cent of the average market rental values for equivalent Housing Department properties. Sub-paragraph 4(3) shows how the housing component is paid to an eligible household occupying social sector housing. Income support takes into account whether the dwelling is appropriate to the needs of the household and whether the weekly rent is reasonable. If these 2 conditions are satisfied the housing component payable is the weekly rent. Therefore, this paragraph of the Regulations removes the current cap on the rates that can be paid in respect of social housing properties. Sub-paragraph 4(4) establishes how the housing component is paid if the property is social sector housing, is occupied by an eligible household and is appropriate to the needs of that household but is deemed to have a more than reasonable rent when compared to the value of that property on the open market. It prescribes a rent for a similar size of property that is listed in sub-paragraph 4(13). This is an unusual situation which is not expected to occur. However, the inclusion of this clause provides a financial guarantee to my department that should situations arise where rent increases exceed 90 per cent of market value. Sub-paragraph 4(5) establishes how the housing component is paid when the property is social sector housing, is occupied by an eligible household but is too large for the needs of that household. If this is the case the rate paid is either the rate for an appropriate sized dwelling from a list in sub-paragraph 4.13 or the weekly rent whichever is the lower. This is the same method that is already used to deal with these situations under the existing Regulations. Sub-paragraph 4(6) establishes how the housing component is paid to an eligible household occupying a dwelling which is owned by a member of that household. It takes into account whether the dwelling is too large for the needs of the household. Sub-paragraphs 4(6) and 4(7) are actually identical to the existing Regulations. Sub-paragraph 4(7) lists the rates that are paid in respect of different sizes of properties that are owned by a member of the eligible household. Sub-paragraph 4(8) defines whether a dwelling or part of a dwelling is appropriate for the needs of an eligible household. This principle expresses a general principle of income support and is found in the existing Regulations but uses the series of paragraphs that follow to better clarify the existing rules. If the dwelling has become larger than is necessary because the household has become smaller within the last 12 months it is considered appropriate providing the household is taking reasonable steps to find accommodation of a reasonable size. Sub-paragraph 4(9) provides for situations where more than one household shares a property. It allows for these situations to be treated differently if all of the household are part of the same family unit. Sub-paragraph 4(10) provides for situations where more than one household shares a property, they are all eligible households and they are part of the same family unit. The housing component is divided equally among all of the households entitled to it. If the dwelling is not an appropriate size for the sum of the household, the component is paid according to an appropriately sized dwelling. I am getting there. Sub-paragraph 4(11) provides for situations where more than one household shares a property. They are part of the same family unit but at least one of them is not an eligible household. The housing component is divided equally among all the households entitled to it. If the dwelling is not an appropriate size for the sum of the

households the component is limited to or capped at the size of the dwelling they need. Finally, sub-paragraph 4(12) provides for a typical house share where more than one household shares a property and they are not part of the same family unit. The housing component is split between all the eligible households with each one allocated a part that reflects the number of bedrooms that are appropriate to their needs. The value of the housing component to be split is determined by sub-paragraph 2 for private sector housing and sub-paragraph 13 in the case of social housing. Tests are applied to determine whether the proportion of the property occupied is appropriate to the needs of the household and if the weekly rent paid is lower then that is paid instead. The value of the housing component to be split is determined by sub-paragraph 7 in cases where the dwelling is owned by a member of the household. Finally, sub-paragraph 4(13) provides a list of rates that are used when a property is social housing but is not an appropriate size for the eligible household. This is newly required due to the removal of uniform fair rent levels. The rates here are based on 90 per cent of the average rental value of the equivalent Housing Department properties. Finally, Regulation 4 allows for these Regulations to come into force on 7th April this year which is when the new rent structure for social housing providers commences. So I propose Regulations 3 and 4.

**The Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on the Regulations 3 or 4?

**11.3.1 Deputy G.P. Southern:**

It concerns the nature of being over-housed and the requirement or the need to downsize. The Minister for Social Security, in his introduction, mentioned a reasonable time that would be allowed for people to arrange that downsizing or to get on the list to apply to downsize and I just wondered what that reasonable time was. My understanding currently is that it is up to 12 months but is that the case?

**11.3.2 Deputy R.G. Le Hérisier:**

Although we have heard of this House's inconsistent messages about policing the private sector perhaps we did not give the Minister for Health the power she required, although I know the Minister for Housing, having had a briefing there in the last week or so, was doing some good work. I wonder if under (4)(c) of 4, could the Minister tell us whether he will be exercising the enormous leverage he has as the paymaster in order to help raise the standards. It strikes me (4)(c) may be a way of doing that. Will he be content just to act as a channel for monies to be paid or how will he choose, as has been mentioned in earlier speeches, to try and use his enormous power and influence to raise the standards in the sector?

**11.3.3 Deputy M. Tadier:**

Obviously I endorse that last comment. That really is going to be the rub at some point. We have this Regulation talking about appropriateness and we have been seen that do with the habitable properties. It is all very well having these nice words written into our law but who tests what defines "habitable" and "appropriate". There needs to be, at some point, a clear criteria set out and a benchmark also which can be regulated otherwise it is pointless but I suspect that may be coming.

[17:00]

With regard to section 4 I will be voting against 4(2) in particular. We have this list of costs. There is no basis for comparison. We do not do anything at the moment to look at the square footage or the square meterage of properties which is commonplace now I believe in Europe. So a 2-bedroom flat may be one thing to one person if they are 2 double bedrooms. If they are 2 single bedrooms or one double and a child's room it is completely different. We also know that some properties are

marketed as 3-bedroom properties but you have got 2 bedrooms at a push and then one box room which ends up as a study and a 3-bedroom with a study and other amenity space is obviously a completely different ballgame. So we do not know any of that at the moment. We do not have any fair comparisons. Something that the Deputy of St. Ouen said earlier, which I think is interesting at this point to consider is, if it is true or rather if it becomes true, in my opinion that the private sector end up being our partners in providing social housing where, for whatever reason, the Government is not able to do it or the Trusts are unable to do for technical, political or practical reasons. How about we include the private sector in the Housing Gateway? If they are ultimately to be responsible for providing social housing and we know we have just merged the Housing Department and the Trust so that anyone wanting to be housed who fits the criteria comes under that gateway, why not include the private sector under that gateway? That is some food for thought if we are genuinely to think that the private sector are our partners in providing social provision. It would not be all of them of course but then subsequent changes would need to be made. I think the rub really is for Article 4, which are contained in there, and I will certainly be voting against that for the aforementioned reasons from the previous part of the debate.

**11.3.4 Deputy A.K.F. Green:**

Just to pick up on one point, or a couple of points there, regulation of a private rental is something that we are looking at at the moment. We do have the Lodging House Law but that only applies to units of 5 or more and we are looking at the possibility of the standard that we apply for social housing as a minimum applying to all other units of accommodation but it is very much work under progress at the moment.

**The Bailiff:**

Does any other Member wish to speak on these 2 Regulations? Then I invite the Minister to reply.

**11.3.5 Senator F. du H. Le Gresley:**

In response to Deputy Southern, the reasonable time is 12 months if they are on the Gateway transfer list, in other words if they are looking to transfer from one existing property, which is too big for them, and they want to downsize we allow 12 months but if we receive information from the Housing Department that there is a delay then we would continue to allow the existing component to continue. When Deputy Le Hérissier refers to paragraph (4)(c) about “appropriate”. This is appropriate in relation to size not quality. So it is the appropriate size for the household not the quality of the accommodation and the Minister for Housing has explained that we need to have further legislation, which is coming forward, to do the regulation of the standards of housing in the private sector. With that I maintain the Regulations.

**The Bailiff:**

Deputy Tadier had asked for a separate vote, is that right, Deputy? You want Regulation 3 voted on separately?

**Deputy M. Tadier:**

Regulations 3 and 4 together.

**The Bailiff:**

Together, you want them?

**Deputy M. Tadier:**

I particularly want to vote of Article 4, yes.

**The Bailiff:**

No, I think Regulation 4 is simply the citation but Regulation 3, which amends the previous Regulation 4, so I think what you want is a separate vote on Regulation 3.

**Deputy M. Tadier:**

That is correct.

**The Bailiff:**

Very well, so we will take a vote first of all on Regulation 3. The appel is called for? Yes, the appel is called for then on Regulation 3. The Greffier will open the voting.

<b>POUR: 38</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator A. Breckon		Deputy M.R. Higgins (H)		
Senator S.C. Ferguson		Deputy G.C.L. Baudains (C)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

**The Bailiff:**

Regulation 4 is simply the citation. May we take that on a standing vote? All those in favour of adopting Regulation 4 kindly show? Those against. Regulation 4 is adopted. Do you propose the Regulations in Third Reading, Minister?

**11.4 Senator F. du H. Le Gresley:**

Yes. I just want to thank, as always, the officers of Social Security who, as you can see, from the date we lodged this proposition, were working over Christmas and New Year to get it lodged by 6th January so we could debate it today so that all the computer changes that need now to be prepared for 7th April can be processed. I would also reiterate to Members that the proposal does increase the cost of income support going forward and we will have to, in future debates on Medium-Term Financial Plans, be hopefully supportive of bids for growth from whoever may be the Minister for Social Security for income support because the policy going forward will be more costly. So with that I maintain the proposition in Third Reading and ask for the appel.

**The Bailiff:**

Is there is a seconder in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading?

**11.4.1 The Deputy of St. Ouen:**

Very quickly. A couple of things. I think the Minister for Social Security earlier in his summing up of the principal debate was a bit disingenuous when he said: "We did not vote on 100 per cent."

**The Bailiff:**

Sorry, several Members have been disingenuous. I think it is an unparliamentary expression, inaccurate you can say, in error or something like that.

**The Deputy of St. Ouen:**

Any of those words will do. **[Laughter]**

**The Bailiff:**

Do you want me to make the response then for you? **[Laughter]**

**The Deputy of St. Ouen:**

That was very disingenuous. I could argue he is absolutely correct, we did not physically vote on the 100 per cent. However, and it is a big however, and he even underlines it in his report, but that was one of the key assumptions that the States Members relied upon when agreeing the P.33 and the elements of it so I would just like to make that point. Also I am not sure when the Minister summed-up whether he dealt with the issue of monitoring. So perhaps I can ask him slightly more directly whether his department is planning to keep under review the implementation of these Regulations and is prepared to report back to this Assembly prior to the next Medium-Term Financial Plan debate with any issues that may arise from the implementation of, in particular, the new rent policy that we are about to agree. Thank you.

**11.4.2 Deputy J.H. Young:**

Just to ask the Minister to clarify please his sting in the tail remark there. He said, if I understood him correctly, that in future years the costs of what we are approving is going to be greater and,

therefore, Members will need to be prepared to meet that increase, those Members that are present, in that time, which I assume is 2016/2017, in the M.T.F.P. Is he saying that the cost is likely to be, in the long-term future, more than the £1 million that he has told the Assembly today or is he taking into account in that remark the growth in numbers expected to call upon the benefit? Could he clarify that?

#### **11.4.3 Deputy M. Tadier:**

Simply in terms of growth, as well, one thing to add, which I do not think was added previously, is that it is not simply the fact that there is an under-provision of social rental but it is dependent on the economic upturn or downturn of things perpetuated. Clearly, one issue is that if people cannot afford to buy their own properties or do not have the ... clearly in an ideal world everyone would be able to buy their properties if the rents that they are paying are the same as what a mortgage would be. It is really the deposits, which we know, but that is another factor and so it is not simply to do with population and the provision of social housing but it is something we need to be constantly vigilant of and something which we do not really have any control over ultimately. So we could see a vast increase - or hopefully a decrease - of those in future who will be needing to use this provision with the consequential potential increase of income support spending.

#### **The Bailiff:**

Does any other Member wish to speak in Third Reading? Then I call upon the Minister to reply.

#### **11.4.4 Senator F. du H. Le Gresley:**

I am not quite sure what Deputy of St. Ouen was saying, was I inaccurate, disingenuous or whatever?

#### **The Bailiff:**

In the end he definitely withdrew disingenuous.

#### **Senator F. du H. Le Gresley:**

I was merely saying that this is the first opportunity this Assembly has to debate proposals on how we support tenants in the private sector. What we have had before was a report independently commissioned which was presented as an R., which is not debated. It certainly gave the direction of travel but it did not say how we would get to the final destination and the final destination is the 95 per cent because that is all we can afford. Deputy Young was concerned about my sting in the tail, as he put it. I am just being absolutely realistic with Members that there will be a greater cost going forward. We always review rates every year. The housing component, historically, has gone up every year at the request of the Housing Department, principally, and there is absolutely no reason why the private sector should have their rates frozen for the next 2 or 3 years because we say we have not got enough money. So the intention would be not to review them this October but certainly to review them next October and to put into the next Medium-Term Financial Plan appropriate scaling of increases based on basically what the market is doing at that time. So we cannot ignore the private sector just because we set some rates today; that does not finish it. We have to review those rates every year and see whether they can or should be increased. That is really what I was saying, is the rates will probably go up going forward into the next Medium-Term Financial Plan. As to the numbers on income support, although I have been accused of saying that the recession is already over, but I am not quite sure when I said that, one would hope that as the economy picks up and more people have more hours of work and we have less people unemployed the burden on the taxpayer of the income support budget will start to reduce or at least stand still. Just to say to Members that this Minister is keeping tight control; as at the end of 2013 the cost of

the weekly component of income support, which is included within this, excludes the provision for people in residential care, the cost went up by £1.7 million, 2013 to 2012, which is a 2.4 per cent increase. Given that the numbers increased quite significantly I think that means we have kept control of the budget but it is not to say we can continue without future rises going forward. So, with that I maintain the ... in the Third Reading and ask for the appel.

**The Bailiff:**

The appel is called for in relation to the Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 38</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator A. Breckon		Deputy T.A. Vallois (S)		
Senator S.C. Ferguson		Deputy M.R. Higgins (H)		
Senator A.J.H. Maclean		Deputy G.C.L. Baudains (C)		
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

## **12. Jersey Employment Tribunal: appointment of members (P.8/2014)**

### **The Bailiff:**

So the next matter on the Order Paper is Projet 8, Jersey Employment Tribunal: appointment of members lodged by the Minister for Social Security. I will ask the Greffier to read the proposition.

### **The Deputy Greffier of the States:**

The States are asked to decide whether they are of option to appoint, further to a process overseen by the Jersey Appointments Commission and in accordance with Regulation 3(2) of the Employment Tribunal (Jersey) Regulations 2005, the following persons as members of the Jersey Employment Tribunal each for a period of 5 years commencing on 1st March 2014: Advocate Michael Preston, Mrs. Hilary Griffin and Mrs. Emma Harper

### **12.1 Senator F. du H. Le Gresley (The Minister for Social Security):**

Yes, I am very pleased to propose the appointment of 2 Deputy Chairmen and one side member to the Jersey Employment Tribunal. This tribunal, as most Members know, deals with complaints made under the employment legislation. When a 3-person tribunal is formed to hear a complaint it consists of a legally qualified chairman or a deputy chairman with 2 side members, one employer representative and one employee representative. The 2005 Employment Tribunal Regulations permit a pool of up to 16 side members to be appointed, 8 on each side. One employee representative side member position became vacant in September last year when the member resigned having moved to England. In addition the Tribunal Regulations were amended in 2012 to allow us to recruit up to 4 more deputy chairmen. This will enable the tribunal to deal with increases in workload but particularly with the proposed introduction of the Discrimination Law later this year subject to Members approving the Appointed Day Act, which I have lodged. The tribunal positions were openly advertised and interviews took place during October to December 2013.

[17:15]

The recruitment panel consisted of a Jersey Appointments Commissioner, the Deputy Judicial Greffier and the Chairman of the Employment Tribunal. The recruitment panel recommended 2 candidates for the position of deputy chairman, Advocate Michael Preston and Mrs. Hilary Griffin. The panel also recommended Mrs. Emma Harper for the position of employer representative side member. Further details about the 3 proposed members are provided in the appendix to this proposition. I am satisfied that the 3 proposed new members have the required qualifications and they will bring considerable knowledge and experience to their roles. The proposed candidates would be appointed to the Employment Tribunal each for a 5-year term of office starting from 1st March. I make the proposition.

### **The Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? All those in favour of adopting the proposition kindly show. Those against. It is adopted.

## **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

### **The Bailiff:**

So we come now to arrangement of public business for future meetings and I invite the Vice-Chairman of the Privileges and Procedures Committee to speak to it.

**13. Deputy M. Tadier (Vice-Chairman, Privileges and Procedures Committee):**

I am advised that there is nothing new to add for public business apart from comments which have been lodged for P.15, which is down for debate on 18th March. The next sitting does not seem particularly heavy on business and I was wondering if it is appropriate to ask if there is any propositions that can be brought forward. I have heard from Deputy Young on my left that P.16, for example, is due for debate on 18th March. Would it be in order to bring that forward and would it be appropriate to ask the Assembly now to do that?

**The Bailiff:**

Will it have been lodged?

**Deputy M. Tadier:**

It has been lodged the requisite time.

**The Bailiff:**

It will have, will it? Well, it is a matter for Members. Deputy Young, are you happy to move it forward?

**13.1 Deputy J.H. Young:**

I am happy. What troubles me is we have got a very light sitting and all know the log jam is coming so anything we can do to move stuff up I am in favour of it. So I am willing to volunteer for that if the House go with it.

**The Bailiff:**

Very well. So the proposal is to add P.16 to the agenda for 4th March. Does any Member wish to say anything on the proposed business? Are Members content then to proceed with that business with the addition of P.16? Very well. So that concludes the Assembly's business and we will reconvene on 4th March.

**ADJOURNMENT**

[17:22]