

# STATES OF JERSEY

## EXTRAORDINARY SITTING OFFICIAL REPORT

THURSDAY, 9th APRIL 2020

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[10:10]

**The Roll was called and the Deputy Greffier of the States led the Assembly in Prayer.**

[10:15]

## **COMMUNICATIONS BY THE PRESIDING OFFICER**

**The Bailiff:**

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

On behalf of Members, I would like to welcome His Excellency the Lieutenant Governor to the virtual Chamber this morning.

### **1.2 Changing order of Order Paper**

One or 2 things before we move on to business. The first thing is that it has been suggested, as on the last occasion, that we deal with the items of legislation first and then come on to questions and ministerial statements after that. Do Members agree? I propose to proceed in that way unless Members indicate strongly that they do not agree. Greffier, I cannot see the chat, I have a screen in front of me here. It is alright, they are all saying yes. Thank you very much, that seems to have met pretty well with universal approval. Could I remind Members that when we do get to people having the opportunity to speak on the legislation or otherwise, they need to indicate their desire to do so by putting on the chat “speak” and then letting us see that they wish to speak. Or “question”, letting us know when they wish to ask a question and I can then note the names down as if your lights had come on in the real Assembly.

### **1.3 Voting**

In terms of voting, a new voting system was successfully piloted yesterday afternoon. For those who participated I hope they found it successful. What will happen is when the matter is put to a vote a link will be sent on the chat by the Greffier. Members will need to click on the link and they will then go to a voting screen, which will enable them to vote *pour* or *contre* or abstain. Then when they press “submit” they will receive an acknowledgement back at the end of that confirming which way they have voted and the vote will be collated and declared more or less automatically after that. So that enables contemporaneous voting. I will remind Members of that when we get to the first vote.

## **PUBLIC BUSINESS**

**The Bailiff:**

We will take questions and ministerial statements at the end, so we now move to Public Business. Before we start Public Business, as we have done over the last few meetings, we obviously need to consider, and Members need to approve if they wish, that we can take the various items, notwithstanding the appropriate lodging periods have not been maintained. That will include the Amendments as well as the main Propositions. Chief Minister, do you wish to make the Proposition for these items *en bloc*?

**Senator J.A.N. Le Fondré:**

Yes, Sir.

**The Bailiff:**

Is that seconded? [**Seconded**] Does any Member wish to speak on whether we take these items today? No one has indicated they wish to speak. Those in favour of adopting kindly indicate. Yes, it is clear that is approved by the majority, so thank you very much.

## **2. Draft Regulation of Care (Amendment of Law) (COVID-19 – Temporary Amendment No. 2) (Jersey) Regulations 202- (P.39/2020)**

### **The Bailiff:**

We can now move on and deal with the first item of Public Business, which is the Regulation of Care (Amendment of Law) (COVID-19 – Temporary Amendment No. 2) lodged by the Chief Minister and I ask the Greffier to read the citation.

### **The Deputy Greffier of the States:**

Draft Regulation of Care (Amendment of Law) (COVID-19 – Temporary Amendment No. 2) (Jersey) Regulations 202-. The States make these Regulations under Article 2 of the Regulation of Care (Jersey ) Law 2014

### **Senator J.A.N. Le Fondré (The Chief Minister):**

Deputy Young is acting as *rapporteur*.

### **2.1 Deputy J.H. Young of St. Brelade (The Minister for the Environment - *rapporteur*):**

Although I was not present on the States sitting in person on 30th September, I did listen to the debate when the Assembly previously considered this measure, which was introduced temporarily until 30th September. Today I am bringing a further Amendment adjusting, making what are quite minor but very important Amendments to that temporary provision. Having listened to the debate, my Assistant Minister, Deputy Guida, very successfully explained to the Assembly why these provisions were necessary. But a number of Members did raise significant questions where there was not any criteria, if you like, by which these interim, I suppose one would describe as, emergency services were provided. So, Members were seeking safeguards. This Amendment is a proposal which has been worked up in order to deliver it and I need to say straightaway that these safeguards have been discussed in quite detail with the officers and indeed with the Chief Inspector of the Care Commission and also the Minister for Health and Social Services and a number of those Members who are quite firm in their wish to see some safeguards in the temporary facilities. Again, just a brief reminder of why do we need temporary care facilities, and this is a provision that they may be needed both in Health and Community Services and other care providers in the event that existing care homes or adult day care centres become infected with COVID-19 and care receivers are required to temporarily move out to facilitate a deep clean or, if during the outbreak, the demand and the need for those services does outstrip the supply. So that will involve, as Members discussed and agreed last time, repurposing temporary care accommodation and of course the normal requirement in normal circumstances there would be a need to register with the Commission for such premises and then of course the Commission would have all of the opportunity to ensure compliance was achieved before that registration took place. Of course, we are in an emergency situation here and it is quite clear that there will not be circumstances in which that full requirement of our normal standard of regulation and registration can be possible because we are, of course, as a community, aiming to ensure that we have got the very best of standards. In particular, the kind of things that they look at are things like designated safe storage for medicines, accessible washing facilities and appropriate door widths for wheelchair access and also the issues of staff being fully qualified, skills and experience to undertake the particular roles that they are being asked to do. Members said: “What checks are there going to be?” I think what we decided, and there is a consensus on that, is what is in the Amendment, which is quite simple. Firstly, the additional service that is being provided and exempted from that registration, the Minister for Health and Social Services needs to be satisfied that that service is necessary. I think that is an important provision and I am very grateful that the Minister has been prepared to take on that responsibility because what it would prevent is that it would prevent anything taking place which was not subject to that degree of, if you like, ministerial authorisation. That this is really necessary as a result of the COVID-19 emergency. Secondly, there is a requirement to the

person providing the service that that provider has to seek advice from the Commission about the best means of providing it. Of course, what I am not able to do today is to set out that advice in great detail and provisions as we would normally do. I think one has to leave it to the people who are involved who are very committed and committed to the States' objectives to be able to deal with these issues on an individual basis as and when they arise. I am very pleased that the Chief Inspector, when we spoke to her, was willing to take on that service. So I think that is why this Amendment has come forward. Just to remind you, it is only new services that could fulfil within the term of this exemption from regulation, because existing care homes and adult care providers need to remain registered and to meet the standard of them, even obviously during the pandemic and afterwards. But the Amendment is temporary powers, as they are written. From 1st October 2020 all providers of home care and adult care services must adhere to the full standards of requirements which were inspected by the Commission in all cases prior to the onset of COVID-19. I think, as I said, just to sum up, the Minister for Health and Social Services, I am grateful for him being prepared to have it written into Law that he needs to be satisfied that these temporary COVID facilities should be established. That there is a genuine need before they can operate and it would prevent effectively - I do not like using slang - but it would prevent anybody entering this market, if you like, by the back door, which I think a number of Members were troubled about before. So that issue is now prevented. Secondly, the Commission about offering advice and assistance to the provider, and I think we are going to have to rely and be grateful for the Commission being prepared to do that, but in speaking to the Chief Inspector, this includes advising on the issues about appropriate training of staff and how best to adapt the accommodation that they intend to provide to meet the needs of the people who are having care received. Also they were sure that the Commission is aware, the Commission knows about those services so that when it gets to 1st October 2020, when hopefully things return to normal, the Commission will be well placed to regulate and restore the normal registration and regulations in a normal way. I ask Members to adopt the principle of this Amendment please.

**The Bailiff:**

Thank you. Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles?

**2.1.1 Deputy R.J. Renouf of St. Ouen:**

I do support these additional Amendments to the Law. They are designed to give breathing space to the Island's care providers - principally, I believe, my Department - which would allow us to expand capacity in the care sector quickly in response to COVID-19, recognising that these are extremely challenging times for providers of care. It is likely that care providers will need to make emergency temporary care arrangements and it is reasonable to foresee that we could need additional beds to accommodate patients who are receiving treatments for COVID-19 or for other patients who, because of the outbreak, cannot be accommodated as usual. We know that even here in Jersey, but also in Guernsey and the U.K. (United Kingdom), some care homes have been substantially affected by the virus so we must have flexibility to manage this and, if it became necessary, to find alternative temporary accommodation rapidly for any unaffected residents.

[10:30]

I believe Regulations, which we passed on 24th March, introduced proportionate measures that gave my Department flexibility to respond but I also support the additional safeguards in these Amendment Regulations. It is important that the temporary exemption from regulation can only be used by service providers who really do need it, and that would include Health and Community Services. I do assure Members that I share concerns that these measures absolutely should not be used to allow unregulated providers into Jersey by the back door. So as a result of these Amendments I now have an involvement and I can assure Members I will look carefully at any application to establish temporary COVID-19 related care home or an adult day care service. I will do that rigorously. I will require

evidence that the proposed extra capacity really is necessary and that this needs must have arisen as a direct or indirect result of COVID-19. Of course, in doing all that I will be guided by expert officers before I reach a decision. I am also pleased that the Amendments ensure the Care Commission will retain a watching brief over any temporary care home and adult day care service. I see that as important because the Commission will be in a position to assist services so that whatever accommodation they are in they can meet the highest possible standards in that accommodation during this period. It is only a temporary period, of course, because it means that if the premises were to continue beyond 30th September as a care environment, the Commission would be in a position to impose regulation immediately. So I will be supporting these safeguards and I ask other Members to do the same.

### **2.1.2 Deputy G.P. Southern of St. Helier:**

I just want to ask what role there might be, if any, either under the COVID Regulations or when we get to a post COVID world, what role there would be for the ethical care charter involved in setting standards for decent provision in this area?

### **2.1.3 Deputy R.J. Ward of St. Helier:**

I would like to just mention something about the staff that will be needed for any new provision that is provided because those staff may have to retrain very rapidly in order to take on the role. That training will not be as full a training as would be expected in regulated homes. There are a number of things there. First of all, it needs to be made very clear to those staff that on 1st October when this ends and all homes or care centres, whatever they may be called, become regulated again then they may not be qualified to work in them and that needs to be made very clear to those staff when they first start. If they do want to continue to work in that sector what type of provision will there be to build up and boost that training to a standard that is acceptable? Also, given the nature of COVID-19, which may be being treated at that time or cared for, some reassurance that training on the appropriate use of P.P.E. (personal protective equipment) will be involved, so it is staff who are perhaps moving into a new sector that they have never been in before. Thank you.

### **2.1.4 Deputy M. Tadier of St. Brelade:**

Obviously, I support this Proposition that is coming forward and is being led by my new Minister at Environment, who is leading on it. I think it does strike a good balance in these difficult times between what we would normally expect of full high standards for all the staff in terms of recruitment in the industry and nothing like a complete open door policy, which is clearly not satisfactory either. Insofar as that is the case, clearly this is an improvement. But I would add a couple of more general comments about residential care in care homes. It becomes slightly academic as to whether or not the recruitment processes are following a slightly lower bar, if in fact the weakest link is to do with the P.P.E. that Deputy Ward alluded to, for example. My concern, following the announcements that we have had officially this week, but also I am sure I am not the only one being contacted by constituents, in my case in St. Brelade No. 2 District, who have expressed concerns about care homes in our constituency. It really underlies the fact that it is to do with the weakest link. It is almost academic who the staff are if those staff, for example, do not have access to personal protective equipment. My concern is that those individuals in the care homes, probably in many cases quite elderly, are the most vulnerable in our communities. They are literally sitting ducks in many cases. If we are not doing the utmost to protect them I am really concerned that this piece of legislation, as I have said, is academic if the safeguards are not in place to look after those most vulnerable in the care homes. I would add to the Minister, I will take this opportunity, I think it is really important and I fully understand confidentiality. But it is also important that people who have families and loved ones in those institutions they should be really kept up to date with any of the homes where there is an acute problem. Certainly for the political representatives of those districts I think we have a right to know, albeit even under confidentiality, whether those care homes are in our constituency.

### **2.1.5 Deputy K.G. Pamplin of St. Saviour:**

First, I just want to comment as one half of the Scrutiny Panels who scrutinised these Regulations with the Corporate Services Panel, the Health and Social Security Panel also looked over these Regulations. A comments paper has been sent to Members this morning and again, on behalf of Scrutiny, I would like to thank the Minister, the team, and all the officers for again working in such extraordinary ways for us to be able to offer scrutiny, a key function still of our democracy, virtual as well. I just have a more general question. We are also supporting of these Amendments and thank the Ministers for their answers, especially once again the Minister for Health and Social Services for clarifying some points for us. My question is to the Minister for the Environment. Is he getting a sense of or an indication from his Department and also from the Commission when putting this together a need coming down the line for these services to come on? Equally, would also the Minister for the Environment agree that maybe a joint press conference with the Care Commission about all the things about safeguarding that is being raised by the general public in terms of the safeguarding measures being put in place under the criteria we all face during COVID-19 in terms of safeguarding that the Care Commission could maybe help reassure members of the public that safeguarding is being carried out under the social distancing and isolation measures we are all facing. I think that would be a very good and helpful thing to hear from the Care Commission for the Island. That is all I wanted to say.

### **2.1.6 Deputy R.E. Huelin of St. Peter:**

I would just like to raise something that has been brought to my attention by constituents and I am going to use the term “staff hoarding” and I believe it is care homes’ practice is they want to ensure the care workers within their employ are not going elsewhere and doing, shall we say, bank work or agency work elsewhere, i.e. doing double shifts. Now I can understand the logic that they do not want to have the COVID being spread from care home to care home, however we also have to trade that off against a situation where we are going to have huge demand for carers, carers who are prepared to work incredibly hard to support our community and who are prevented from doing those extra hours, not necessarily financial but to look after those people that they care for. I just raise it as a point that we need a trade-off, whether it is better use of P.P.E. equipment, or whatever it is, to ensure that these people can do their full contribution for their role.

### **2.1.7 Deputy M.R. Le Hegarat of St. Helier:**

This legislation obviously does not fall under Health and Social Security Scrutiny Panel, however it clearly is a health matter and so therefore we looked at the legislation in short time, and we are satisfied that this is necessary. The points that were raised and the questions asked were in relation to the Minister for Health and Social Services and what input they would have and we are satisfied that this will happen. Also from the point of view of the Commission. We will, as a Scrutiny Panel, continue to monitor and obviously if there is any movement in any care homes which extend best services further out from where they currently are, then we will make sure that that is looked at by us. So we will be supporting this Amendment and we look forward to seeing how it develops.

### **2.1.8 Deputy K.F. Morel of St. Lawrence:**

I just wondered if the Minister might, in his response, address this issue. It is in the Corporate Services Scrutiny Panel’s comments, they say that the Minister for Health and Social Services is likely to be the most regular user of these provisions if they are used at all. So with regards to asking the Commission for help, I would just like assurance that the Commission’s advice will be taken on a case by case basis each time as an individual set of new advice and that that element of these proposals will not become just a tick box exercise for the Health Department. It is important that if 2 or 3 care homes are set up by the Health Department that each one accepts the advice separately and not just sending an email to the Commissioner for the sake of ticking that box. I would just like assurance that the advice will be taken seriously and used appropriately in each care home situation.

### **The Bailiff:**

Does any other Member wish to speak on the principles? I call on Deputy Young to respond.

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

I thank all of the 9 Members that have spoken. Members will of course know that this area of social care is not my main skill area. Obviously what I have done today is to present and have agreed to take on responsibility, because it is regulation and regulation needs to be independent, is to bring forward a strengthening of Regulations to try and achieve what we all want, which is absolutely safe and decent and really great State care standards to be maintained and indeed improved in the future. We want that. I think the one thing we have all learnt as a society, just what is important in society. It is true that people, care workers, I do not personally believe have been valued fully by society in the past and I think in the future that is something that is absolutely going to change. So all the points that Members are saying are absolutely right. Also, recognising the vulnerability of this particular group of our community. It is really important we get this right. But having said that, I am not today going to say that what we put in place, what has been able to be put in place in an emergency situation, is perfect. It is not. The question I asked the Chief Inspector of the Care Commission when we have spoken in our conferences with the professionals and others is: "Look, the States have approved a complete situation where there are no checks in place.

[10:45]

We know what we want to achieve is a perfect situation but we know we cannot do that. Is there a middle way?" The Care Commission said there absolutely is. We will work on an individual case by case basis on every one of these facilities and do our best to make sure these issues of dealing with issues arising staff training and staff practice, and the premises themselves, but there are bound to be limitations on the actual premises because we are going to have to deal with repurposing existing premises. We are not in a position of being able to create what is ideally necessary in this emergency. But I was absolutely convinced from the conviction of the Chairman, the Chief Inspector, their determination to help us with that. Looking at the particular points that Members raised, I think certainly ... I thank Deputy Le Hegarat, and I think Deputy Le Hegarat absolutely got it right. I am really pleased that she has agreed to keep close to this through her Scrutiny Panel with the Minister for Health and Social Services because we are going to have to rely on the role of the Minister for Health and Social Services in this and you heard what the Deputy of St. Ouen, the Minister for Health and Social Services, said. He gave that commitment, and so I think that will help. Deputy Pamplin, I think you have got a really good idea here. I think Members are raising the same issues which came out in the previous debate and therefore I think having an arrangement where we have a joint press conference with the Care Commission, possibly in public, I will undertake to take that away. Because I think there is an issue that we need to ensure that we maintain confidence of all users of that sector that we are doing as best we can. Yes, Deputy Huelin, if I was working in the Health Department and I was an expert in supply I would be delighted to stand here and say there is no problem; everybody is going to get P.P.E. I cannot do that. I am going to have to rely on other Ministers and our workers behind the scenes. But even though I am not close to it, I really do believe our team of people are really doing their best when they are facing a situation of an international shortage. I think this issue about double shifting and working in different homes, that is an issue that we are all going to have to rely on the advice coming from our health experts because the whole issue is dealing with infection risk. So I cannot again say that is perfect and that is how it is going to be. I think these 2 roles of the Minister for Health and Social Services and the clinician are going to be crucial on a case by case basis. Deputy Morel, if I thought that this was going to be a tick box exercise I would not have agreed to be *rappporteur* for this item today. Having involved myself with the officers it is not going to be a tick box exercise. It will be on a case by case basis but Members do need to accept this is a compromise solution, it is not perfect but we all believe it is the best that we can adopt. I ask Members please to pass the principles.

**Deputy G.P. Southern:**

Could I have a point of clarification please, Sir? Hello?

**The Bailiff:**

Apparently, can you hear me now? Yes, Deputy Southern has a point of clarification of Deputy Young. What is the point, Deputy?

**Deputy G.P. Southern:**

The point being: who will be responsible for the involvement of the ethical care charter in domestic homes, domiciliary care? Will it be him as Minister [for the Environment] or the Minister for Health and Social Services or will it be the Care Commission? Who has got responsibility for ensuring that similar standards and terms and conditions apply across the board to institutions and domiciliary care?

**The Bailiff:**

Are you able to clarify that point, Deputy Young?

**Deputy J.H. Young:**

I will say, of course the Deputy will know, this is not my area of expertise but I think everything I have said has spoken about ethical standards. This is not a document that the Deputy is referring to that I am familiar with but I will undertake that I will ensure I engage with both the Minister for Health and Social Services and the Care Commission on that particular point and to see that you get a response subsequently. I think that is the best I can say on that point at the moment.

**Deputy G.P. Southern:**

The Minister will be aware however that the ethical care charter has been passed by this House and is supposed to apply.

**The Bailiff:**

I am not sure, Deputy, I can take that as a point of clarification on the speech. Deputy Young has said what he has said. The *appel* has been called for, I note, so we will take the *appel*. Just a moment; become ready for that.

**Senator J.A.N. Le Fondré:**

Can I seek clarification? I understood that we would be having a form sent to us.

**The Bailiff:**

Yes, we are just waiting to deal with that at the moment. The vote is there. The *appel* is called for. Do Members see that on the chat there is a link sent by the Deputy Greffier? Members need to click on that link. A form will then appear and you can vote *pour*, *contre* or abstain. When you press submit that will be recorded as your vote in the circumstances.

**Connétable R.A. Buchanan of St. Ouen:**

Yes, Sir, it is working fine.

**The Bailiff:**

Thank you very much indeed.

**Senator J.A.N. Le Fondré:**

Congratulations to the Greffe, it is excellent.

**The Bailiff:**

If anyone thinks that they have a technical problem with following the link and doing what has just been asked they can add their vote now into the chat and that will form part of the count.

<b>POUR: 47</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

**The Bailiff:**

Does the Corporate Services Scrutiny Panel wish to scrutinise the matter, Senator Moore?

**Senator K.L. Moore (Chair, Corporate Services Scrutiny Panel):**

No, thank you.

**The Bailiff:**

How do you wish to deal with the matter in Second Reading, Deputy Young?

**2.2 Deputy J.H. Young:**

If I could please take the Regulations *en bloc* and answer any questions.

**The Bailiff:**

You propose them *en bloc*. Are they seconded? **[Seconded]** Does any Member wish to speak on the Regulations or any of them?

**2.2.1 Deputy K.F. Morel:**

Due to the unusual situation where the Minister for the Environment is presenting these Regulations I was wondering if I could prevail upon the Minister for Health and Social Services to respond to my question. Which is that given - as I said in the previous debate - that the health service is likely to be the biggest user of these Regulations and given that the Regulations require that the service provider only to ask the Care Commission for advice and there is no legal obligation to put that advice into action, would the Minister for Health and Social Services please assure the Assembly that he will ensure that advice offered by the Care Commission is put into action in any temporary care homes that are constructed or created under his authority, so those care homes which are operated by the Health Department itself? I would appreciate it if the Minister for Health and Social Services would give the Assembly that assurance?

**2.2.2 The Deputy of St. Ouen:**

In answering Deputy Morel, insofar as the Deputy wants me to give them absolute assurance I do not think I can, otherwise that would negate the purpose of these emergency Regulations, it seems to me. Emergency Regulations are designed to meet a highly unusual situation where we are not able to meet all the usual standards imposed by Regulations in normal times. What I commit to do is of course consult closely with the Care Commission and to take with absolute seriousness their advice and recommendations but we will be engaged in trying to save lives here and there may need to be some compromise around the excellent care standards we have. I want to maintain them as much as can be but, at this stage, not knowing exactly what we might be dealing with in terms of numbers or premises or requirements, I am afraid I cannot say that we will be adopting the standards that exist in normal times, otherwise we would not need these Regulations. But please rest assured, I do want to assure Members, that we care in H.C.S. (Health and Community Services). We are not going to throw the patients in wholly unsatisfactory, unsanitary, dilapidated conditions with insufficient staff or protection. This will be a care environment and we will be looking after Islanders. I care about that. I think that is all I can say at this stage. But we will have continuing conversations throughout the period that these Regulations are in force and my Scrutiny Panel will be engaged. This will be done in full consultation with all concerned, including States Members.

**The Bailiff:**

Does any other Member wish to speak in Second Reading? No other Member wishes to speak, I call upon Deputy Young to respond.

**2.2.3 Deputy J.H. Young:**

I thank Deputy Morel for his question. He understands the situation well and I thank the Minister for Health and Social Services, the Deputy of St. Ouen, for what he said. I think all of us are

absolutely determined that we will do our best but I am afraid in terms of premises, facilities in the premises, we are going to be talking about existing premises, compromises are going to be necessary in this emergency situation. I am so grateful that the Minister for Health and Social Services is prepared to take this on because it is not as if the Minister for Health and Social Services has not got anything else to do. This is an extra function. I cannot do better than just echo the words of the Deputy of St. Ouen, the Minister, he has given that commitment, and I think with the Scrutiny Panel keeping an eye on this these Regulations are the best as we can get them and we have gone through several drafts to try and make them more focused and clearer of what is expected; that the Care Commission have a real role here. I ask for the *appel* on the Second Reading.

[11:00]

**The Bailiff:**

The *appel* is called for. Shortly a link will come on to the screen. It is there. I would ask Members to vote in the normal way, thank you. I am allowing a little bit more time than normal so that Members have the opportunity for the voting screen to appear to them.

<b>POUR: 47</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator J.A.N. Le Fondré		
Senator T.A. Vallois		
Senator K.L. Moore		
Senator S.W. Pallett		
Senator S.Y. Mézec		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Saviour		
Connétable of St. Brelade		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
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Connétable of St. Ouen		
Connétable of St. Martin		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy of St. Ouen		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy G.J. Truscott (B)		
Deputy J.H. Young (B)		
Deputy L.B.E. Ash (C)		

Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

**The Bailiff:**

Do you propose the matter in Third Reading, Deputy Young?

**Deputy J.H. Young:**

Yes, please, Sir.

**The Bailiff:**

Are they seconded for Third Reading? [**Seconded**] Does any Member wish to speak in Third Reading? Those Members in favour of adopting in Third Reading would they go on to the chat and do *pour/contre* in the normal way? Or the way that has become normal. When we have finished the vote we will give the *appel* results. Thank you very much, the Regulations have been adopted in Third Reading. Are we in the position to give the results of the *appel*? There is no *appel* for the Third Reading but you will see for the Second Reading the votes are now indicated on the chat screen.

**3. Draft COVID-19 (Residential Tenancy) (Temporary Amendment of Law) (Jersey) Regulations 202- (P.42/2020)**

**The Bailiff:**

We now come on to the next item which is the Draft COVID-19 (Residential Tenancy) (Temporary Amendment of Law) (Jersey) Regulations, P.42, lodged by the Minister for Children and Housing and I ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft COVID-19 (Residential Tenancy) (Temporary Amendment of Law) (Jersey) Regulations 202-. The States makes these Regulations under Article 2 of the COVID-19 (Enabling Provisions) (Jersey) Law 2020.

**Deputy J.H. Young:**

I am sorry to intervene. I would like to declare an interest in this matter, because I do have a direct financial interest and so please, Sir, I shall not be taking part in this item or the Amendment. I just wanted to put that forward before we commence this item.

**The Bailiff:**

So that the Greffe can keep a record properly could you declare any interest through the chat?

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

Could I ask a question? Many Members do own properties and I believe that many members of the public believe that States Members are not always voting in the interests of the public because of the properties they own. This happens on a number of issues ...

**The Bailiff:**

Is this a matter in which you are raising ...

**Deputy M.R. Higgins:**

It is important, Sir.

**The Bailiff:**

I am about to ask you whether you are raising this in terms of Members declaring an interest or not?

**Deputy M.R. Higgins:**

Yes, Sir, I am. I do believe that all Members should not only declare their interest but should consider their positions because many of the arguments that we have been seeing ...

**The Bailiff:**

Deputy, this is not an opportunity for a speech. Members have an obligation to declare the interests; they are declaring the interests. We can see it on the chat. But there is no opportunity for implications or urging upon Members to deal with matters in any particular way, I am afraid.

**Deputy M.R. Higgins:**

Can the declarations be published then, so the members of the public can see it? Thank you.

**The Bailiff:**

Yes, they will all be in the minutes of the Assembly, in the normal way, Deputy.

**Deputy M.R. Higgins:**

Thank you, Sir.

**The Bailiff:**

This is not a matter in which individuals are required pursuant to Standing Orders to withdraw. It is a matter which is held in interests for the large number of members of the public. Deputy Ward, did you ask for a point of clarification?

**Deputy R.J. Ward:**

Yes, Sir, I think you may have just partly answered it but if Members are declaring an interest is it up to them to simply decide whether they will not vote, or is that a ruling that you would make as Bailiff in this situation?

**The Bailiff:**

I can make a ruling as to the interpretation of Standing Orders. In my judgment it is not necessary for Members to withdraw, having declared an interest in the way that they have, but naturally Members will take whatever view they have personally about whether or not they wish to participate in the debate. I call on the Minister to move the principles.

**3.1 Senator S.Y. Mézec (The Minister for Children and Housing):**

I just wanted to start my proposal of these Regulations by pointing out 2 facts, which Members are aware of, which are beyond the ability of the Assembly to change but which leads to our being in this situation where these Regulations are necessary. The first of those facts is that the top medical advice that we have is that there needs to be strict social distancing and that includes avoiding leaving home unless it is absolutely necessary. The second fact is that Jersey's courts have already determined that for the COVID period they will not be hearing eviction cases. Those 2 facts then inevitably give rise to the situation that we are now in where usual tenancy arrangements are going to be disrupted. That is unavoidable and that will simply be the case. It has to be absolutely right that during this time

people cannot be kicked out of their homes or be required to move homes when it is not medically necessary. We are in the biggest public health crisis in a century and we are advising people to stay at home and being forced to leave home would bring people into unnecessary contact with others, which is part of what helps spread the virus. The purpose of these Regulations is to provide a helpful statutory framework for managing this situation. The Regulations achieve 3 key things, which I will highlight. The first is that they extend tenancies which were naturally due to expire during this period to 30th September unless both parties agree that they wish for it to end early. That is a fundamental protection against tenants having to move at a time where it is too risky. The second thing it does is it prevents rent increases taking place during this time. That is important because of any potential for exacerbated financial hardship and the exacerbation of rental arrears, which is a problem that would exist not just for the tenant and landlord but potentially for the whole of our society as we are having to go the extra mile and take unprecedented steps to assist people with the income problems that they are having, like the co-funding payroll scheme and the extension of income support that we have seen. The third thing that the Regulations do is that they make it so rental arrears, which are accrued because of the COVID related hardship, cannot be used later as grounds for an eviction order. This is a really important safeguard against a possible situation that could arise if we do nothing where, when the courts eventually deem it safe to start operating as usual and start taking eviction applications, we could theoretically end up in a situation where there are hundreds of applications for evictions because of rent arrears because of COVID and we end up in a situation of absolute chaos and end up facing another crisis ultimately down to something that was not the tenant's fault. What this does is that it enables this to be more manageable and compels parties to have to engage with one another to manage this, rather than having an instant altercation when the COVID period is over. The Regulations also provide me the ability to issue guidance, which can be used in potential future court proceedings, to provide an idea of what reasonable behaviour can look like during this time so that we know cases of hardship that are claimed are genuine cases of hardship rather than vexatious. These are extraordinary measures in extraordinary times. This is one measure of many countless measures that we are taking to see Jersey through this crisis, playing its part in protecting our health in the present but also securing a more stable future as well. Members may be aware of some back and forth which has taken place since the Regulations were lodged and there has been a suggestion that these Regulations are a sledgehammer to crack a nut. I am sorry to say that I think this attitude is, at best, naïve and, at worst, irresponsible. In this time it is simply not good enough to just rely on goodwill when we are facing a health crisis. Of course it is going to be the case that the vast majority of people, both landlords and tenants, are going to be sensible. I fundamentally believe that most human beings are good by nature and like treating other people well and decently. But if it were the case that goodwill was simply enough to get us through this crisis then the Assembly would not have needed to pass the powers that we did at the last sitting for enforcing social distancing because all it takes is a small number to have a disproportionate impact in this crisis. It only takes one case that can lead to many more cases and the consequence is dire because that is how the virus spreads. To do nothing, and to proceed without this legislation, would see circumstances arise that are in nobody's interest. Firstly, we will see tenancies expire in the meantime yet people cannot move from those homes because the health advice is for them to stay put and the courts will not be processing an eviction. You would end up in a situation where you would have people essentially squatting with no legal underpinning and for maintaining a relationship between them and their landlord. That is not in the interests of the tenant. It is not in the interests of the landlord. These Regulations reconcile that issue. It would also be the case that there is no framework for dealing with how the consequences of the medical advice and the decision from the courts not to pursue evictions can be dealt with once this is over. We could see a floodgate of cases with no idea for how they ought to be reconciled properly and providing no incentive or compulsion for parties to sit down, talk to one another - virtually obviously - and find a way that is manageable for all sides that we can accept is done in good faith to help everybody through what is a very difficult period.

[11:15]

I would say that these Regulations are in the interests of landlords because they help provide that framework. The biggest concern that I have had put to me by landlords has been that they are worried that because of the unilateral action taken by the courts to prevent evictions from taking place that it provides a green light for people to take the mickey, for people to just cancel their standing orders, that is it, not going to pay my rent and there is nothing anyone can do about it, even though some of those people may well be perfectly able to pay their rent. They may well have a stable income throughout this time and would be able to meet their contractual obligations. What this does is it makes clear that that is not acceptable and that those people will not be protected from taking that action and that if people are facing financial hardship, both the tenant facing hardship and landlord facing hardship, then they need to talk about it and demonstrate a reasonableness that can be relied upon later. At the end of the day all of this is temporary. These will fall away at the end of September and I hope that when this Island returns to normality that we can continue to have good relations between tenants and landlords having come through a very difficult time for everybody with a framework underpinning it, that is in the interests of everybody and enables us to move forward together rather than leaving things to goodwill, which in some isolated cases may not exist and may have dire consequences or leaving it to chance. So I hope Members will accept these Regulations are not proposed lightly. They are extraordinary measures in extraordinary times. We have looked at other jurisdictions to see what measures have been taken. I have been particularly inspired by the example set in New Zealand, which Members may be aware of. I am absolutely sure that these measures are necessary to protect people, I hope Members will agree with that. I propose the Regulations and the principles.

**The Bailiff:**

The principles are proposed. Are they seconded? **[Seconded]**

**3.1.1 Deputy I. Gardiner of St. Helier:**

First of all, I agree with the Minister and we do need to put the framework that will support tenants at this situation because this means we are supporting our public health. I would like to ask the Minister if he can advise the Assembly if further plans to support landlords and enable them to meet their financial obligations because of the loss of their rental income are under development. What I mean, if we can put a framework together which the protection from the eviction and/or repossession needs to be passed up the chain. The landlords need protection against the banks if the rental income pays for mortgages. Utility charges can be included as a part of rent therefore landlords need protection against utility bills. Also protection from rates and insurance or any other standing costs or debts for the properties paid from the rent gathered from the tenant. If any landlord, for example a landlord may have a property as a sole income, as a pension, they should be able to get financial support to prevent the hardship being passed along from tenant to landlord or letting agents or people who work at lodging houses, they need to be paid. So basically what I am asking, following a possible adoption of this Regulation, which I generally support, I would like to expect that the Minister can address if there is any framework underway which will protect landlords as well.

**3.1.2 Deputy J.H. Perchard of St. Saviour:**

Firstly I would like to say that I completely support these changes and I will be voting for them but I do just have some questions that would be helpful for the Minister to answer or at least take away for consideration. In the instance of evictions that have already been issued, is there an impact on those evictions? I ask that specifically because I am aware of a particular instance where a tenant has not paid rent for several months and it is impacting the pension of those who are owed the rent and after many attempts of reconciliation it has resulted in an eviction but obviously it would just be helpful to know how this impacts evictions that have already been issued. Also, just as a kind of point of principle, would the States schemes that have been introduced, we have introduced deferrals and loan

options and I know that there is financial support being given as well with the business support packages, but it does seem that we are forcing others in the community to just accept a period of time where they may not receive the income that they would otherwise receive whereas as a body we seem to be asking for deferred payments. It was just a point of principle really. I am completely supportive of these Regulations and I think it is absolutely right that we protect tenants. But it is something that is worth consideration by Government. Are we imposing the same standards that we hold ourselves to when it comes to providing financial support rather than just increasing people's debt?

### **3.1.3 Deputy L.B. Ash of St. Clement:**

This is a very strange situation we find ourselves in. I think most of the people in the Assembly will find themselves in, is that we are passing things through now that fundamentally we do not agree with. I do not agree with this but I will vote for this. It is a long line of things similar to what we had with care home workers not being police checked for a limited time. No one would normally vote for that. Police having the powers of arrest if people are out of their houses without good reason. We would never normally vote for that. But these are extraordinary times and you only have to look around. Sports facilities, restaurants, pubs, all shut, the airport with only one airline. It is very important that we protect the vulnerable within our society both economically and financially. In this particular act you are looking at a sector there that could be vulnerable both economically and financially and I think it is important that we support the Minister for Children and Housing here. What I would like him to do though is to look into, and perhaps come back with something at the next Assembly to be able to tell us about, to look at landlords that are left in a financial problem themselves and what way we can help them because we are helping many businesses and if a landlord is in a financial problem then we should also look at helping him.

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

This is a fairly obvious straightforward piece of legislation, despite the extreme conditions in which we find ourselves, and where we are setting up a statutory framework wherein the Minister for Children and Housing can act and that means is able to act or not. The key is "or not". In an ideal world there will be absolutely no need for any action under these Regulations and that all landlords will be perfectly well behaved and reasonable and all tenants will be perfectly behaved and reasonable. However, should either of those not be reasonable this gives the powers the ability to act or not.

### **3.1.5 Deputy K.F. Morel:**

I just wanted to say a few words. Number one, the first thing is, yes, I would like to say that I will be voting for this Law in the principles. I do want to say, the Minister though - I believe - is in danger of destroying any goodwill he has with landlords. The speech he just made, for a start, does not help his relationships with landlords. While I accept that the Minister himself is deeply suspicious of landlords, I do not think that a Minister for Children and Housing should destroy any relationship with those people, because they are key to him being able to deliver his portfolio appropriately. I would like to say that the people I am most concerned about, on the landlord side of this ... because I am extremely concerned about those tenants who are unable to pay their rent. I do not want to see them in any way evicted or have that fear or pressure upon them. That is why I will support this proposal. However, I would like to say on the landlord side that I am concerned about those people who use the rent to pay ... as their almost sole pension and also those who pay their way in a care home by use of the rent that they receive from the property that they have vacated. I do believe that the Minister needs to address that. I believe the Minister needs to work with the Minister for Health and Social Services to bring in similar statute to ensure that there is no sudden flood of care homes chasing debts or seeking to remove people from their care at the end of this crisis, for those who have not been able to pay their way in their care home, due to them not having received rent. I do believe the Minister should address that with the Minister for Health and Social Services. As a member of

the Scrutiny Panel that oversees these Regulations, I would like to say that while I appreciate the very short timeframes or the great pressure the officers and the Minister are under at the moment, I am very disappointed that we received the guidelines only last night at 5.30 p.m., as a Scrutiny Panel. That has not given us time to scrutinise the guidelines. We have not had a chance to sit down and discuss the guidelines. The Regulations themselves refer to those guidelines. As is often the case with laws such as these, it is that which is not written in a statute which is the part that will direct the courts in how they act, *et cetera*. The guidelines are therefore extremely important to these Regulations. As such, I would ask, because our Scrutiny Panel has not had a chance to discuss those guidelines, the Chairman to call in this Regulation in the Second Reading, so that we can have a proper discussion on those guidelines. Receiving them within less than 24 hours is not appropriate. The Minister should have deferred this as a result to the next opportunity for debate. I just want to say those things. The Minister should liaise with the Minister for Health and Social Services and draw up guidelines, if not statute, to protect those people in care homes who are losing their income as a result of this. I do believe the Minister needs to work hard to rebuild his relationship with landlords. He will find over the coming 2 years that it is necessary that he has a working relationship with landlords. Thank you.

### **3.1.6 Connétable M.K. Jackson of St. Brelade:**

I speak at this stage in the principles, prior to bringing an Amendment in the Second Reading, I presume. This comment is in response to the previous speaker, who suggests that the matter may be called in. It is my view, yes, we received the guidelines only late last evening but the reality is we are in an emergency situation in terms of people having to pay for their care home rental. The same would apply, I would have thought, to them in that they are not going to be evicted. I do not think anybody would consider doing that at this stage. They will have to catch up on their rentals when the time comes. What are we going to gain by deferring this?

[11:30]

I suggest very little. We have had a presentation to the Panel and I shall speak to that later. Thank you.

### **3.1.7 Connétable C.H. Taylor of St. John:**

Any legislation brought in by the Assembly must be measured, timely and appropriate. Just because we have an emergency we should not use those powers to sweep aside good governance. I believe that the guidance notes are the first step that should be taken. I think that, generally, they are accepted. However, if landlords or tenants abuse the situation then you bring in legislation to reinforce those guidance notes. Things are being done back to front. This is only serving to put the backs up of the very people we will rely on in the future to house a very large and significant proportion of the Island's population. I fear that these measures will alienate many landlords and will make the job of providing 7,000 new homes that are going to be needed by the Island in the next 10 years very difficult. I would urge enormous caution. I would respectfully request that the guidance notes are brought in first and then the legislation later, should it be necessary. What we are seeing here is a sledgehammer to crack a nut. I am afraid the consequences could be long lasting and difficult to smooth over. I shall listen to the rest of the debate, but I am instinctively against supporting any Proposition that is not going to be in the best interests of everyone on this Island. Thank you.

### **3.1.8 Deputy L.M.C. Doublet of St. Saviour:**

I will be supporting what we are debating today. It is exactly the kind of thing that we need at this time. I have had several members of my constituency contacting me about difficulties in this area. I want to thank the landlords and the landladies that have been helping people. I have seen some extremely selfless acts, in terms of people cutting rents in half and saying: "You will not need to repay." Landlords and landladies need to be recognised for the efforts that they are making to help

people during this crisis. The Senator when he proposed this mentioned goodwill. There is a lot of goodwill, but not everybody is displaying that goodwill, although it is a very small proportion. During a time of crisis, when we are working to safeguard people's mental health as well as their physical health at a time when people are lacking control in many areas of their lives on a daily basis. If we can put this in place, it gives people back a level of certainty. This can reassure people that there is one area of their life at least that they do not have to worry about and they do not have to have anxiety about for the time being. I am concerned that the cumulative result of all of these worries and anxieties is going to result in a mental health crisis down the line. I am very much in favour of this because of the certainty that it will give people. Not just tenants, but the landlords and landladies themselves, because it will help people to know exactly where they stand and to stop people worrying and mulling over things. It gives clarity. I want to thank the Minister for bringing this forward and I will be supporting it.

### **3.1.9 The Deputy of St. Peter:**

I have a rather dry cough; just as well I am isolating. I am very much looking forward to the statement from the Minister for Economic Development, Tourism, Sport and Culture on his guidance for commercial landlords and tenants. As has already been discussed, Members have had since 10.00 p.m. last night to review and digest the guidance issued by the Minister for Children and Housing. I understand that both guidance documents are broadly similar and I suggest they were drafted in parallel. It is clear that when we are through this terrible crisis and the courts reopen it is these guidance notes that will be taken into consideration. It is these notes that will ensure all landlords and tenants, both residential and commercial, adopt a common standard of practice. From what I have read so far of the guidance notes for residential landlords and tenants, I broadly support them. They are very well drafted, they are balanced and represent, I believe, common sense. What I do not understand is the need for the legislation P.42. I do not understand why Government are taking such opposing approaches, one for commercial landlords being collaborative and engaging and the other for residential being potentially divisive and alienating, as has been mentioned by Deputy Morel and the Constable of St. John. It appears there have been a few landlords needing, and I put this in parenthesis, advice and a comparable number of tenants not behaving properly. Against that, we have recently developed a great relationship with residential landlords and tenants alike. The industry is united in doing their bit to support and is committed to help us through this crisis. Yes, we are in the worst crisis in living memory and it is at these times we must unite as a community. I fear this Proposition, if approved, will only serve to divide us and, again, alienate the landlords. The landlords, who are going to play the major part when we come to rebuild and delivering the homes for the future this Island needs, as has been well documented. I am afraid, albeit subliminally, it might change the behaviour of the landlords and not for the better. I am only going to comment on the behaviour of landlords. Why would a landlord want to evict when he cannot re-let the property at the moment? Because, quite rightly, the social distancing laws means they cannot show a property. They cannot physically do the condition report that is required. Most landlords, in my experiences, are only interested in putting up rents when there are secure tenants in secure jobs and secure positions who feel it is business as usual for the rents to go up, obviously only by cost of living, which is the condition of the majority of rents. Moving on to what I have been doing, I have contacted and offered my support to Citizens' Advice. I have had 2 cases referred to me. Both have been resolved. In my opinion, they needed assurance and a concerned voice to give comfort and support to both parties. It is that community approach that is required, not this slightly blunt instrument of P.42. Really what I want to do, and I know Deputy Perchard and other people have mentioned it, is show what real landlords look like. It is important to share that. Yes, there are landlords with large portfolios. If you have a large portfolio and one or 2 tenants or more are unable to pay their rent then that is very easy to ride. So they should do as well; they have the cash flow and the capacity to do it. However, that is not what most landlords look like. Let me give you 2 actual and real examples; these are not unique and one-offs. Again, Deputy Morel has mentioned, I know a 90 year old lady who rents out

her modest flat, the income of which goes to pay towards her care home. I am also aware of an 85 year old lady who rents out her family home and has taken a lease on a smaller flat. The balance of this income is spent on carers for her at home, to enable her to live an independent life, which she could not do otherwise if she did not have the income. If they are in the unfortunate situation of having their tenant affected by COVID-19, I can ask you all: do they need the additional stress of heavy-handed legislation in the sunset of their lives? Where do they fit into the government scheme? Who are going to support landlords who lose their income when it is their sole source of income for their survival? They are not unemployed, they are not part of the co-funded payroll scheme and they probably do not have the cash resource to ride the storm. So, for risk of not speaking too much longer, these are some of the unforeseen consequences of bringing this sort of legislation to the Assembly. I have been public about this. I am happy to take calls from any landlord and tenant who need support and happy for them to be referred by any Member of our Assembly. I have already publicly stated this. I am very happy to ensure that good communications, as I have been doing with Citizens' Advice, is continued. All I can say, is therefore let us have some faith in and support our community, adopt the guidelines, continue to seek the co-operation of the landlords, not alienate them, offer them the respect they deserve, and vote out this Proposition. Thank you.

**3.1.10 Deputy M. Tadier:**

It seems that the landlord party is alive and well in the States Assembly. We were told that we do not have party politics, but clearly we do, and the landlord party even have their own Scrutiny Panel, it would seem. I know we live in strange times, but it seems that we are going into even stranger times in the realms of a Monty Python sketch, if we are going to see Deputy Huelin giving advice to people independently at the Citizens' Advice in Jersey. That is perhaps one step too far.

**The Deputy of St. Peter:**

Sir, can I object to that? I have already done it, delivered it, and done it satisfactorily to everybody's agreement.

**The Bailiff:**

I am sorry, Deputy, what is the nature of your objection precisely?

**The Deputy of St. Peter:**

It is an objection that I am not capable of giving independent advice, as I have done through my offer to help with Citizens' Advice Bureau. I have delivered that with both parties happy. I object to that slur.

**The Bailiff:**

You have made your point Deputy Huelin. We do not need to take it any further. Deputy Tadier, please continue.

**The Deputy of St. Peter:**

I am fine with that, Sir.

**Deputy M. Tadier:**

I do not like the way that this debate is developing. I have sent a link out to Members, which I hope they can see in the chat. It refers to the Jersey Residential Tenancy Law from 2011, which came into effect in 2013. Like Deputy Huelin, I have given lots of advice over the years to constituents, both the ones who live in my constituency and anyone who comes to me to do with tenancy matters. I have fought many cases against eviction when landlords have tried to do things that are essentially illegal. I have also given words of advice and intervened. Sometimes that has been delicate and difficult to do. It is because you cannot always rely on people to do the right thing. I do not like to get stuck in what I would call a false dichotomy of good tenants and bad tenants. When it comes to

landlords there are often bad situations. There are a lot of accidental landlords out there. When you are in the middle of a crisis, in the same way that you see some businesses that struggle, it is exactly the same with tenants and landlords. Some people do not choose to be landlords and they do not necessarily have the wherewithal and certainly the capital to deal with these issues when a crisis comes. The reason I have sent the Residential Tenancy link out is because this legislation, yes, to a certain extent, is to safeguard vulnerable people. We do not want people moving around in a pandemic, because it is not helpful. Similarly, the real reason I think is that, we do not want the courts overwhelmed with eviction cases and interpretation of contracts, which they are obliged to do under the Residential Tenancy Law. The Residential Tenancy Law, incidentally, if you look at part 16 of it, talks about the jurisdiction of the court. The court that we are talking about when it comes to residential tenancy is not the Royal Court or even the Magistrate's Court, it is the Petty Debts Court. It says that the court shall have exclusive, original jurisdiction over any matter relating to a residential tenancy or a residential tenancy agreement.

[11:45]

That they shall have power to hear and determine any such matter, and to make orders relating to any such matter, including orders of the termination of the residential tenancy agreement. This means that at any one time, and it does not have to be during a pandemic, a tenant or a landlord can take a dispute or even create a dispute for the court to resolve. You could theoretically say, as a tenant: "I think my rent is too high." You could even do it: "Given the circumstances of the fact that there is a crisis and I am not getting enough money and that Social Security are only paying me a certain amount of money during this very difficult time, I think it is reasonable for me to ask the court to determine that my rent should be reduced or that my tenancy should be extended." Similarly the landlord can make any approach to the court for whatever reason that he or she would want to. If all tenants and some landlords start to do this because they are in a financial crisis, the courts would simply be overwhelmed, even though people are just using the statutory power that the Residential Tenancy Law enables them to do. Even if it is not for humanitarian reasons that one would be inclined to vote for this today, there is a strong pragmatic reason. That is if we do not want our courts to be overwhelmed and if we do not want society to effectively collapse in the interim, then we need to support this for that very hardnosed reason. I do take exception of the subtle drip that Deputy Morel tried to suggest, that this is going to create bad will between tenants, particularly when he said that Senator Mézec is naturally suspicious, or something to that effect, of landlords. From my conversations with Senator Mézec, and in a small Island we all have family or we know people who are both landlords and tenants, some might be both, I do not think that is true. Senator Mézec is suspicious of bad landlords. Nobody in this Assembly should be out there to try and support bad practices. It was sent around by email, but some Members have even touched on this today, saying we do not need legislation because we should just rely on people to do the right thing. We can take this point to its logical conclusion, which is by that rationale we do not need any laws at all, we can just rely on people to do the right thing. Do not have laws against murder, because most people in their right mind would not ever consider murdering anybody. So just get rid of all laws and give everybody a gun, shall we? That is the libertarian approach. The argument is that if you are not doing anything wrong, you have nothing to hide. If you are a good landlord you have nothing to fear from this particular legislation. It will only capture those who are the bad landlords. There are a lot of issues that have been related, which I think are tangential. Of course, there are issues about people who rely on their rental income. The bottom line is we talk about a sledgehammer to crack a nut, I think this was the Constable of St. John. He trivialises it because the nub of the problem that we are dealing with is people who may be facing eviction at a very difficult time. We know there are people who would rather leave properties empty, both in the commercial and residential sector, rather than have a tenant in, for whatever reason. I cannot quite fathom that logic. Some people must have so much money that they can afford to leave properties empty. We know that people are not always rational. We do not even know where all of these landlords are. Some are not present in the Island

anyway. It is important to have legislation to protect those individuals at these times. I think I have said enough. I do have other notes. I could talk extensively on housing matters. We are not going to solve all of the problems with capitalism today. But I do ask Members to give their support to the Minister for Children and Housing, as the wider Council of Ministers are trying to do at this time. He has emphasised the fact that these are emergency powers, which are time limited until September. I do have to add, for the record, that I will potentially benefit from this theoretically, as a tenant, because my tenancy runs out in August. I am hoping that it will be renewed by mutual agreement. Of course, I would benefit from an extension if this were to pass, but I am sure there are many other tenants in that situation. That is the end of my speech. Thank you.

### **3.1.11 Deputy J.A. Martin of St. Helier:**

I just wanted to make a few comments. I am in full support of this. I really have worked with the Deputy of St. Peter and I know he is trying to contact all the landlords that he knows ... and what does a landlord look like? We have many landlords who do not live on the Island. They do it through agents. Grasping that there is still a lot of money going to be out there, a 3-bedroom house rent ... if you are on income support you will still be getting your £369 a week. If it is a private landlord, he might be charging you £400 a week. These are the sorts of conversations ... that person was working last week and maybe a partner was working as well, did not mind making up the little bit of extra. These conversations need to be had. The majority are brilliant and we have a lot of goodwill. The schemes... as I say, there are still many out there. But we cannot take each case, when we are in a pandemic which is going to get worse in the next few weeks: "Oh, can we sort this case out? Can we sort this case out?" Now 2 people have mentioned: "Oh, but a lot of these elderly people are relying on it to pay their nursing home." Do you really think we would see anybody out of a nursing home? We are asking landlords to have the conversation: "If they only have X, can you take that?" Also, I do not know many private landlords who do not take a really good amount, rightly so, upfront, sometimes 3 months up front. They are holding money from the tenants. The tenants will not, I hope, go: "I am not paying my rent." It is going to be illegal once we go through this and these are only until September. I wish we did not have to make laws for a few bad people. But we do not know the bad people. They do not live up the road. If we do not do it now, we will be stuck in the middle. I can envisage people in tents on Howard Davis Park. If you look around the world, people are losing their jobs and their landlords are going up and packing their cases and putting them on the streets. The infection is spreading and spreading. You might say that sounds a bit over the top, look around the world. Not going to happen in Jersey. This is how we do it. We support the Minister. It gives clarity to the landlords as well. Have the conversation. Make sure that you see their financials. It is really simple. I am absolutely fully supportive of what the Minister for Children and Housing is doing and I think we all should be. Thank you.

### **3.1.12 Deputy R.J. Ward:**

So much has been said and there are some points still to be made. I would like to raise a question for the Minister right at the beginning. As I have jotted down notes here they have become a little bit all over the place, so I want to get this one in. I believe that residential tenancies are, in law, not the same as commercial tenancies. Perhaps the comparison is slightly wrong to make. I would like the Minister to try and clarify that please. I have to say, there have been some comments made, but I would like to make a positive comment. Deputy Martin does not always agree with what I say, and I certainly do not always agree with what Deputy Martin says, but in this case she is absolutely spot on. This is an issue about ensuring that people have security in their homes during a time of real challenge for us all. One of the basic needs for all of us is a home of a quality standard. We must all remember that as we go through this debate, particularly at a time when people may be facing illness. Remember that this is not about waiving rents, although those landlords that have been doing that have been doing that. There are obviously some good landlords out there, who are really trying to help their tenants. I have helped a few tenants myself. I have been so pleased with the reaction of

the landlords, who were very realistic about the situation and care enormously, which is good. It is not waiving the rent. It is a question of postponing it and then coming to an agreement, which has a basis supported by this Regulation, which means that both parties can be happy with the outcome. The clear medical advice not to move must be abided to. It is a strange situation when we have a Government who are so clearly trying to put a message across about stay at home, stay safe, when we have Assistant Chief Ministers, who may be saying that moving home is fine. Well, it certainly is not at the moment. It is very sensible to address the current situation in this way. I believe that what we should be doing is that landlords should be welcoming this Regulation, because it gives a standard for all other landlords. Those who are good landlords, those who are doing the right thing, can be assured that any that are not will be taken to task and will not be undercutting them and damaging the reputation of landlords in the way that they can. That is an important issue to be seeing. There are Regulations in so many businesses which are not seen as a huge hindrance to that business, but simply seen as a standard that is being set. Safety issues in industry or hygiene standards, for example, and, thankfully, standards in medical practice that we are all so reliant upon now. We would not even dream of talking about removing those sorts of Regulations at the moment just because they may be difficult. We need to remember that as we go. I do not like the notion of suspicion and it creating a suspicion of landlords. States Members, so many of whom are landlords, saying that creates a suspicion in the voting public of motives. We must be very careful of that, because I am really sure that is not the case. We need to be sure that we do not promote the wrong sort of suspicion here with the speeches that are made. We need to be very careful in the way in which we do that. In the end, I would suggest that we very much support these Regulations and remember that any landlord that has a tenant who is on income support will still be having that significant amount of money being paid to them, which is a very important thing to remember. This is not blanket across the board: all landlords. It is those whose tenants are working many hours often, in order to pay the rent. I have been a tenant myself in previous times before I was lucky enough to be able to get a mortgage and I can remember that the first thing I considered when I was working is how do I pay the rent. That is a reality for so many people. The situation where they cannot pay that rent creates enormous amounts of stress and anxiety. As Deputy Doublet said, we need to be very conscious of the mental pressures on people at this time. Anything that we can put in place as a States Assembly that gives people a definite outcome, in a form of Regulation, will help those people have, if you like, a more certain time at the moment. That is so important for the health of our Islanders. I urge people to please support these Regulations and let us move forward in the support that we give to people living on this Island. Thank you.

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

Can I start by declaring my interest as a landlord jointly with my wife and she, of course, is a landlord in her own right. I do think it is important, as you have mentioned, Sir, that those declarations are publicly made and will be done as the minutes are published. I also want to be absolutely clear with Members that I do not like this legislation. This legislation, like all the emergency legislation that Members have passed over the course of the last 2 or 3 States sittings, contrary to what Deputy Tadier says, are something to be feared. This is regulation in a way that we would never have dreamed of regulating prior to the crisis, just like the Regulation that has taken away Islander's civil liberties, Regulation that has taken away basic police check protections for those caring for our most vulnerable, Regulation that has taken away the Shipman protections when it comes to certifying a death certificate. I could go on and on and on. As legislators, we should absolutely be fearful of them .

[12:00]

We should not find the decisions that we are having to make, to keep Islanders safe and to reduce the number of Islanders that suffer extreme hardship during this time and reduce the number of Islanders who will unfortunately, and we have to be frank about this, lose their lives during this crisis. We

should not like this legislation and we should be fearful of it. With that tension in mind, we should also accept that we have a duty to protect Islanders. We have a duty to protect the most vulnerable. We have a duty, as I have said, to be concerned about Islanders' health and how we are protecting them. Many Members have spoken about the perceived one-sided nature of this legislation. Of course, that is a prerogative that they can make from the legislation. However, let us be clear, the officials in my team have been speaking to the clearing banks, where most Islanders would have either their mortgages or their buy-to-let mortgages or their borrowing facilities that they might have used to become landlords or to extend their properties, all of those particular things. Those banks, as we have publicised, have undertaken to, when they are approached by Islanders who have problems with paying mortgages, as I say, buy-to-let or just simple residential ones, to look upon those requests favourably and to give mortgage payment holidays and borrowing payment holidays. There is in those facilities and those provisions and those conversations and commitments that banks have made some protection for ... I accept it is only some landlords, because landlords who do not have facilities with banks may still potentially find this legislation difficult, but there is protection there for those who do. One thing that is hopefully happening during this crisis is that we are becoming more financially literate. Those who work in financial services know that the thing we should not be is fearful of our financial situation or fearful talking to each other about our financial situation. I say that because the Minister said it and other Members have said it, if tenants are in a financially difficult situation the first thing they should do is speak to their landlord and try to reach agreement. What this legislation does is really encourage that through the Regulation. Speak to your landlord and try to reach an agreement around what is possible and what is not possible to pay. For those landlords that the Constable of St. John referred to, his parishioners, who used that income from their property to perhaps pay for a nursing home or a care home facility or whatever other purpose, they too should be encouraged to have conversations with those care homes and, if necessary, as the Minister for Social Security said, have conversations with the Social Security Department, if their financial situation has changed. The Social Security Department will look upon those conversations favourably and, if necessary, it might be that if a tenant cannot afford to pay an income, the landlord has no income, and if they are required to pay for care home facilities, then the Social Security long-term care scheme would come in and provide some short-term support, were that to be necessary. In any normal day of the week, and we are not in a normal day of the week, we are not even in a normal week of a month or month of a year or even year of a century, we would be challenging the Minister, we would be thinking, in the words of the Constable of St. John, that this was a sledgehammer to crack a nut in the circumstances that we find ourselves in today, even though we do not like it, even though this, like all the other legislation, is something to be feared. There are processes and there are frameworks in place to support landlords, just as this piece of legislation, rightly, is supporting tenants. Therefore, I ask all Members, even with their qualms and even with their concerns, as I will be doing when we get to the *appel*, to support the most vulnerable, to give security over this period, and there is a sunset clause, as the Minister rightly says, of the health crisis. We may need to consider, as I keep talking about, when we come to the end of the health crisis and we have to think about how we come out of the health crisis and we have to think about how we plan for the recession and how we plan for the future. I ask Members by voting for this legislation to support those vulnerable Islanders. As Deputy Ward said, this afternoon gives some security to those tenants that they can have an open discussion with their landlords that that will not prejudice their position financially or tenancy wise and what the issues that arise as we come out of the health crisis will be and can be dealt with in a fair and appropriate way. The lives that we were comfortable with, up until the beginning of this year, they are nowhere on the horizon right now. We are going to have to rebuild our community and our economy together. We are going to have to balance rights right across our community. Surely tenants and Islanders' right to somewhere to live are fundamental rights that we should be wishing to protect during this period. It is not really with a heavy heart, but it is with all those caveats, I will be supporting this piece of legislation and I will be supporting the Minister in his aim of what he is trying to do to protect the most vulnerable during this period. I do thank the

Deputy of St. Peter. I know that he has been putting in a lot of work to convince landlords around the code that he has produced. I support that code as well. I do not think that there is the contradiction between the code and the legislation that is somehow suggested. I think they sit really well together and they provide a framework for, as I have said, tenants and landlords to get through these potential months of financial difficulties. I congratulate him for that. I hope that he will see that voting for this Regulation today will give effect and will allow that code to work in a way that perhaps, for some, it may not have worked. Let us not forget, a crisis like this, while it has brought out the very best in so many Islanders - there are sadly others that have sought, during this crisis, to take advantage of a strong position and to not put others first. We cannot, we absolutely cannot, as a legislature, allow that to happen. For me, the sooner all of this emergency legislation is swept away and we no longer need it that, for me, will be a very happy day. Thank you.

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

I am pleased to be able to speak after Senator Gorst, although I will not be quite so eloquent and passionate as he is but it was Deputy Tadier's speech that made me put my request in to talk because he is quite right. The vast majority of people on both sides of this are good people. When I started the Rental Dwellings Law in my time as the Minister for the Environment, I kicked that piece of work off and it was clear to me that it is 5 per cent of the population that causes us difficulties and that is on both sides. That could be landlords as well as tenants. We have to be sensible, we need to be responsible and good about these things and we know that there are very many people on both sides who are responsible and good. Ideally, we would have more time to look at this but I can clearly appreciate that we need to move as fast as we possibly can. This is a health problem that we need every bit of help we can get with and people are going to be under stress. There are social pressures and we cannot have people moving around in these times. I would be, and still am, quite unhappy about this legislation. I think it is not right that we move forward so quickly without proper scrutiny because this is Big Brother stuff really. Deputy Tadier said: "Where is the bottom line?" I asked the question: "Where does the buck stop?" Of course it is assuring to know that banks, we very much hope, will be having a sympathetic ear because at the end of the day, it will be there that the buck stops. If the tenants do not pay their rent and landlords then struggle to meet their mortgages where they have them, it will be necessary to have understanding bank managers I am sure in many of these cases, so we look to them for their help as well. This is going to be tough all round. Senator Gorst has just alluded to that and he is quite right. We are going to be going into a place where we have not been before and I am going to support this legalisation. It is very necessary. I just hope that sometime in the future, we have more time to look at this sort of thing. Thank you.

#### **3.1.15 Connétable R.A. Buchanan of St. Ouen:**

It is unfortunate that I have to speak after Senator Gorst, my esteemed parishioner, because he made many of the points that I want to make so I will confine my speech to the few issues that I have. Before I start, I need to obviously declare an interest that I am a landlord of a lodging house and that has some, I will not say advantages, but it gives me a particular insight into the problems that we are facing at the moment and I have had to face over the last 2 weeks. It is only a small lodging house and I only have 6 tenants. Before this crisis hit us, they were all working in the hospitality industry and in the retail industry and I have to say that, apart from one, I only have one person now who is employed and only employed on a full-time basis. All the rest of them have either been furloughed or laid off and one unfortunate person is stuck in the Philippines and probably not likely to get back for another 3 months. I have had to compromise with a number of those tenants in terms of their rent clearly because they are very much up against it and they are suffering considerable financial hardship. I have to say Social Security have been very good in helping them but it does bring home to us that, as a crisis, we probably will never see anything like this again and the necessity for this legislation is very real. There are a lot of landlords out there who are adhering to the principles laid out in this legislation but I fear there are some that are not and I think it is entirely right that, in these

very exceptional circumstances, we provide a degree of protection and security for people who are resident in our properties. As Senator Gorst says, I do not think it gives any of us pleasure to pass this legislation but I think we need to bear in mind it is only legislation that will apply to 30th September. It is not permanent and I think it has been a bit disappointing to see the landlord and tenant party fight break out over this, which I think is totally unnecessary. This piece of legislation is simply to get us through what is a very trying period and I think it needs to be passed for the sake of the people who we have in our care as landlords and also I think to give us some guidance and framework to work with to get us through this crisis. The other points I think have been made by everyone else so I will simply finish by saying that I will be supporting this legislation. It does not give me any joy to support it but it is entirely necessary in the current circumstances and I think, for those people that are concerned, it is simply symptomatic of the very difficult and unusual times that we are faced with at the moment so I would urge Members to get behind the Minister for Children and Housing.

[12:15]

I am sure, if he is honest, he does not get any joy at all to bring this legislation but it is, I think, unfortunately necessary in the current climate so I would urge Members to support it.

### **3.1.16 Senator J.A.N. Le Fondré:**

I think the phrase that: “We are in extraordinary times” has been used on many occasions in the last few weeks and I make no apologies for referring to that again and I think there is another phrase which is: “What part of ‘this is a crisis’ do people not get?” The reason I say that is that this event has occurred so swiftly and we are having to bring measures in that perhaps ordinarily certain Members find uncomfortable but we are doing them for very good reasons. I am not going to repeat all the arguments that have been made during the last, I would say, hour or so but I view this very simply. We gave a commitment to support vulnerable tenants or tenants at the same time as we were announcing the measures of support that would be put in place for both employees and businesses and so this legislation is basically a mark of that support. I very simply again remind Members that it is time limited. It is time limited to 30th September. There is never going to be perfect legislation under these circumstances but I hope those who are uncomfortable do draw comfort from the fact that it is limited to 30th September. I am not going to add too much more other than to say I absolutely do support this and I do ask Members to support it themselves. Thank you.

### **3.1.17 Deputy G.J. Truscott of St. Brelade:**

I have been listening intently to the debate as it has gone on this morning. First of all, I would like to declare that I am a commercial landlord so a slightly different perspective to what is going on here this morning. I have had a conversation and I am sure there are many commercial landlords that have had conversations with their tenants because effectively a lot of them have hit the brick wall. There is no income coming in and no foreseeable income coming in so I am doing everything I can to accommodate that particular problem, and I am sure there are other commercial landlords doing likewise. Two important things in life from a family and from a member of society’s point of view is food on the table and a roof over your head and I think these are fundamentals of our life and of our society, and those 2 are such important things, but they are the most expensive things in our life. I think in these unprecedented times - and for sure they are - we really have to respond in this way. A lot of Members have already made the point that, under ordinary circumstances, these types of measures would not have been taken plainly but I will be brief on this. I will be supporting the Minister and I am more than happy to. I think it is totally right what we are doing here: protecting the roof over our head and making sure food is on the table. I think with regard to the Deputy of St. Peter, obviously there are 2 sides to every story and every action has a reaction and I think Senator Gorst made the point that the banks are there to help the landlords. I think we are all in this together

and I think that is so important. I think we all have to pull together and try and help out wherever we can. So, as I say, personally, I will be supporting this legislation.

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

First, if I can make my own declaration that I, jointly with my wife, am a landlord but I am supporting the Minister for Children and Housing in this Proposition but I think we must remember that all of this legislation coming forward is as a result of a public health crisis and this legislation, as with the other measures, is to address public health. So for public health reasons, we need to prevent unnecessary movement across the Island. It seems to me that if tenants are having to go out and search for alternative accommodation, they will not find that very quickly. They will need to have several searches, then they will need to pack up their belongings, then they will need to move themselves and then new tenants might move in. Think of all that activity and then if the tenant cannot move and the landlord wants to take action, Viscount's officers have to serve notices to quit, courts have to sit, courts have to be staffed and people have to attend court. All of this, in normal life, is an acceptable way of proceeding but in a public health emergency, it just creates unnecessary movement across the Island. We must also think about the mental health of tenants. We are asking the Islanders to stay at home. It is going to get more difficult to endure that as time goes on but the essential message is: "Stay at home and avoid unnecessary movement." We have to protect and do what we can to address their mental health issues. If we pile on top of that worry about the rents they cannot afford and the threat of eviction, that will destroy the mental health in so many people and will just create further problems far from addressing the public health emergency we have. So it seems to me that this legislation, like the other emergency measures we have requested, is an effort to allow us to tread water for this limited period. We are trying to quieten down the Island so that we can slow the spread of the virus to a point where it is manageable within the community and within our hospital. We need to cut unnecessary activity and protect a vulnerable group in this respect. So for those public health reasons, which I think are highly valid in this legislation, I will be giving my full support to the Minister for Children and Housing. Thank you.

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

I have, unfortunately, only heard part of the discussion and I keep hearing people talking about the beneficence of the banks in this day of crisis. Well, frankly, I have a constituent with a hospitality company and a very good business and reputation and their bank, in its great magnanimity, proposes an interest rate of 10 per cent on an overdraft which is the first time it has needed an overdraft in, I do not know, 15 or 20 years. So just watch it if you are going to need bank backing for anything. I think the Minister for External Relations may want to get the banks together and knock their heads together because at the moment, they are profiteering. That is another story but I just mention it. Thank you.

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

I am just going to speak very briefly on this as a great deal has been said. I would like to say from the outset that I support all Islanders who are suffering under the current crisis and that in relation to all those who are suffering severe financial losses of income, I am grateful and fully supportive of the safety nets the Council of Ministers has brought in to offer them various degrees of protection. I hope Ministers will look at the question of support for some of those landlords who may be suffering from loss of rental income. I am, however, concerned about the public's perception of the States Assembly, its Members and our decision making. It is a fact that a large number of States Members are landlords. Some own one property, some own parts of a property and others may own multiple properties and when we discuss legislation offering increased protection to tenants, many Members have repeatedly opposed them giving the impression or perception to many members of the public that they are acting in their own vested interests. While I cannot know why States Members vote the way they do any more than other States Members know why I vote the way I do, I do believe that

Members in this instance have declared their interests and that they will vote honourably in the public interest and support these emergency measures, which have been stressed time and again are time limited, and I believe necessary in the extreme situation that we are in at the present time. I will therefore be supporting these measures and I hope Members will dispel the perception that many members of the public have on this matter and support the legislation as well. Thank you.

**The Bailiff:**

Thank you very much, Deputy. Does any other Member wish to speak on the principles? Could Members perhaps stop commenting on adjournment times just at the moment so that I can see if any other Member wishes to speak? Very well, I close the debate and call upon the Minister to respond.

**3.1.21 Senator S.Y. Mézec:**

I had a feeling this one might provoke the interesting and dynamic debate that we have had this morning and now into this afternoon and so, in responding, I thought I will start on the most negative and then move to finish on the more positive and obviously that means starting by addressing Deputy Morel. Some of his comments I would usually rise above but I am not going to on this occasion in the hope that maybe some of the things he is repeatedly bringing up might be nipped in the bud. I feel that Deputy Morel has, on more than one occasion, made false accusations on my character in a way which I find quite unpleasant at times. He does not know me and he does not know the relationships I have with other people and I am not deeply suspicious of landlords. My dad is a landlord. My granddad is a landlord. They are 2 of the people I trust most in the world. I have friends who are landlords. Some of the people I work closely with are landlords. It is simply not true to make that accusation and I find it insulting. He said, in quite a condescending way, that I need to have working relationships with landlords as if I am somehow oblivious to that point and it suggests to me an inability to tell the difference between what is, between people, an honest disagreement versus personal animosity. It is perfectly possible to work with people that simply conclude that one another are wrong and agree to disagree. I think that I have a good relationship with the Jersey Landlords Association. I recently met with the new Chairman and we had a very enjoyable couple of hours talking to one another, not just about this issue but about others as well. I went out of my way to meet the previous Chair as well. There are members of their Committee who I like who I have managed to come across in my personal life in other ways as well. I confess that I even like Deputy Huelin who I find to be a jolly good chap even though we do not always agree on issues. I spoke at the Jersey Landlords Association A.G.M. (Annual General Meeting) shortly after becoming Minister and it was an absolutely cracking evening which I really enjoyed and sincerely hope I am invited to again because of how lively it is and the really challenging questions that they put to me. I have to say that since last week, I made a public call to landlords to get in touch with the emergency housing team that I have put together to see if they had homes that they were willing to offer for emergency accommodation. The response has been amazing. Some absolutely brilliant people have come forward wanting to do their bit. They had an asset that they were not doing anything with and felt that it could have a public use and we are incredibly grateful for those very kind offers that we have had. I am not deeply suspicious of landlords and I do have a good working relationship with them and the following point does not change that and that is that I am a realist. The fact is that even though 99.9 per cent of landlords in Jersey are decent people doing a decent job and look out for their tenants in a way you would hope they would, there is a very small minority that I personally have come across who, quite frankly, are capable of being nasty pieces of work who do occasionally act inappropriately and who do occasionally not have their tenants best interests at heart.

[12:30]

When we are in a public health crisis, one vulnerable tenant being put out like that is one too many because, as we know, this is a virus that spreads through personal contact between people. We are

telling people to stay at home and if even a small number of those people end up in situations they should not be in because of their housing situation, then that risks spreading the virus further and that is not something that I am prepared to put up with. My view is that these Regulations probably will not even touch the many good landlords out there. Many of them probably will not even notice anything has happened because for them and their tenants it will either be business as usual or together they will come up with something sensible that meets both of their needs, in which case, no dispute, happy days and carry on. The Constable of St. John says that, in his view, Regulations should only be brought forward if they are measured, timely and appropriate. I was pleased he said that because these Regulations tick all 3 of those boxes. He made the argument in opposition to this saying that the guidance ought to come first and the legislation should only follow if there is demonstrated abuse of the current situation. I think I addressed that in my opening speech to say that that is just not a responsible position to take because that is a damage limitation measure after the damage has taken place rather than pre-emptively protecting people. I think it is our duty in this crisis to pre-emptively protect people so I totally disagree with that. I thank other Members who spoke. Deputy Gardiner, and I think Deputy Perchard as well, raised some points which will certainly be on people's minds that are important points about support for landlords in other ways, bearing in mind that of course there are some landlords out there who rely on their rental income as pension or have mortgages and that sort of thing and they are absolutely right to raise those concerns. I say, in the context of these Regulations though which are aimed at temporarily amending the Residential Tenancy Law, those concerns cannot be fitted into that Residential Tenancy Law because it exists purely for the purpose of the issues that I am trying to tackle with these Amendments and not other things. So even if they are good and right concerns to have, they do not quite fit into the context of the Residential Tenancy Law. I think that, in trying to address those points, Senator Gorst made some very helpful comments and spoke of some of his experiences being part of the ... I do not know if they have an official title but like the economic response team that is working on some of these measures. He spoke about having spoken to banks who have undertaken to look favourably upon requests for additional leeway if they are facing difficulties because of COVID. I would say that there was a landlord who was listening to this debate who sent me a message as it has been going on to confirm to me that he managed to secure a 3-month mortgage holiday with merely a 10-minute phone conversation with his provider and they did not even ask for that much evidence; so accommodating and reasonable some of these people are. I think that is a good anecdote to share and it shows that if there are people out there who are concerned then that is the appropriate route for them to go down. Deputy Huelin, if he is dedicating time to these sorts of issues, might want to think about being a conduit point for that. I thank other Members who spoke in support. Deputy Luce spoke about his experience as Minister for the Environment and kicking off the Rental Dwellings Law which I thought was very useful to hear. The Constable of St. Ouen as well spoke of his experience as a landlord and praising the work of Social Security and the reasonable attitude that we need to safeguard those tenants who do genuinely fall on hard times and if those hard times are inevitable, then we cannot pretend that they are not happening. We do have to respond and that is what these Regulations are about. I think the Minister for Health and Social Services made the point well that, ultimately, this is a health measure. It is on the basis that we need people to stay in their homes unless it is absolutely necessary for them to leave. That is not just on physical health grounds because of the virus but also the mental health grounds that he referenced where there will be people who are feeling really worried right now, particularly if those are people who are worrying about their jobs and worrying about their income. If there is one small thing to be done to give them peace of mind that now and when this is over there is a better way of dealing with this, then I think that is something to be welcomed that can help them. There have been some comments about the guidelines. There was a suggestion from Deputy Morel that the Regulations should be called in by Scrutiny because of the guidelines, even though the guidelines and Regulations are not the same thing, which is a bizarre suggestion. I can say that if there are genuine concerns about the guidelines which have been sent to Members - and by the way, sent to Members and produced before I am required to do so

which is why the Regulations have not been passed yet - then I am happy to put off publishing those for a few days if there are some comments. That is absolutely no problem but it is not a reason for delaying passing these Regulations because we may decide the guidance is fine as it is or we may decide that there are some minor changes that can be done in the space of a few hours and then we can get on with that, in which case is good, but the legislation itself will not be able to be brought back immediately. We will have to wait until the next sitting. I think the next scheduled one is 21st April. I do not know if there are plans for one sooner than that and it is just delay when it is not necessary because even on the points of contention, there is still a method for reconciling those that do not need to involve either rejecting these Regulations or calling it in for scrutiny. On all of those bases, I thank Members who have contributed and I call for the *appel* on the principles.

**The Bailiff:**

Thank you very much, Senator. The *appel* is called for. Very shortly, a voting link is going to be placed on the chat and Members can see it in front of them. Therefore, will they vote in the way that has become usual with this and then we click on the link and then select their choice of votes and press “submit” as soon as possible? I will allow a fair amount of time for the link to the results in the voting screen.

<b>POUR: 43</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator I.J. Gorst		Deputy of St. Peter		
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy G.J. Truscott (B)				
Deputy L.B.E. Ash (C)				

Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

**The Bailiff:**

Very well, could I just ask, does the Environment, Housing and Infrastructure Scrutiny Panel wish to call this in? The Connétable of St. Brelade? If not him, then the Connétable of St. Saviour.

**Connétable J.E. Le Maistre of Grouville (Member, Environment Housing and Infrastructure Scrutiny Panel):**

I think Grouville, Sir. I do not think we want to call it in.

**The Bailiff:**

Thank you very much. One or 2 Members have indicated that we closed the voting a little too soon for their votes to be recorded. If they wish to indicate their votes on the chat, then that will be added to the voting record by the Greffier. Very well, we are at 4 minutes approximately before the time that we would normally deal with any adjournment.

**LUNCHEON ADJOURNMENT PROPOSED**

**Deputy R. Labey of St. Helier:**

Sir.

**The Bailiff:**

Yes, is that the Chair of P.P.C. (Privileges and Procedures Committee)?

**Deputy R. Labey:**

It is. If it helps, I propose the adjournment and that we resume at 1.30 p.m.

**The Bailiff:**

The adjournment is proposed with the resumption at 1.30 p.m. Could Members indicate whether they agree? It has been seconded. **[Seconded]** Yes, thank you, it appears to be everyone who is indicating is indicating in favour. Accordingly, the Assembly stands adjourned until 1.30 p.m.

**Deputy R.J. Ward:**

Sir, may I ask a question before you go? Do we leave this broadcast and go to another, just to make that clear for Members?

**The Bailiff:**

There will be a new invitation sent in the normal way and you will need to join as per that new invitation.

[12:41]

## **LUNCHEON ADJOURNMENT**

[13:34]

### **The Bailiff:**

We now continue with the Regulations in Second Reading. Presumably, Minister, as there is an Amendment to be debated, you will propose the first Regulation and then we will consider the Amendment.

### **Senator S.Y. Mézec:**

Yes, Sir, that is fine.

### **The Bailiff:**

Do you wish to speak to it or do you wish to propose it at this point?

### **3.2 Senator S.Y. Mézec:**

I will speak to it because obviously these Regulations are new legislation that is coming before the Assembly at the moment, obviously with a reduced lodging period, so I think it is, hopefully, helpful just to talk through the Articles and what they say. The first Regulation is the substantive part of this and consists of Amendments to Article 7 of the Residential Tenancy Law that achieve the principles which I spoke about in the debate earlier. Just going through them, I think they are fairly self-explanatory. The first part, 7A, relates to extending tenancies to the end of September, beginning of October if they were due to expire naturally over this period, while making clear that, of course, if both parties agree they can terminate it earlier if they choose to. But it has that measure in place with that protection so they can be extended and people do not have to find new homes at a time when they should not be required to do that. Article 7B then is consequential to that in that there may well be some tenancies that have been agreed to start in this period but which cannot start because the previous tenancy is now going to overrun because of the provisions in 7A. That is just clarifying that those will not go ahead and that there is a requirement to reimburse tenants or prospective tenants who may otherwise have lost out of because of that. Article 7C is in relation to rent increases, making clear that rent increases, even if they have been already agreed but not yet enacted, will not come into force but, of course, landlords and tenants can plan for what happens when these Regulations are repealed when the sunset clause is enacted. Article 7D relates to changes that will make it so in the future an eviction cannot be ordered if it is sought on the basis of rent in arrears because of financial hardship because of the coronavirus outbreak. That is the part that stops us having potential floodgates opened when the courts are back in action and taking applications. There is that protection there. Article 7E is the part that requires me to issue guidance. That was obviously one of the subjects of the previous debate and is important. Article 7F, which is the one that is subject to Amendment from the Scrutiny Panel, provides me with Order making powers in case there are further changes that become necessary. That is that Regulation.

### **The Bailiff:**

Do you move Regulation 1, Minister?

### **Senator S.Y. Mézec:**

I do.

### **The Bailiff:**

Is Regulation 1 seconded? **[Seconded]**

### **3.3 Draft COVID-19 (Residential Tenancy) (Temporary Amendment of Law) (Jersey) Regulations 202- (P.42/2020): Amendment (P.42/2020 Amd.)**

#### **The Bailiff:**

Then we have an Amendment to Regulation 1 and I will ask the Greffier to read the Amendment.

#### **The Deputy Greffier of the States:**

Page 9, Regulation 1. In Regulation 1 delete the inserted Article 7F. In Regulation 1 renumber the inserted Article 7G as Article 7F.

#### **3.3.1 The Connétable of St. Brelade (Chair, Environment, Housing and Infrastructure Scrutiny Panel):**

The Panel received a briefing from the Minister and his officers prior to lodging of the draft Regulations and I am grateful to them for making themselves available. Various issues were raised at the meeting, much of which has been discussed this morning, and we were subsequently advised that the Minister agreed to amend Article 7D(1) prior to lodging to include the requirement for a tenant to provide evidence of financial hardship. He did not, however, support the Panel's proposal to remove the Minister's powers to amend the draft Regulations by Order. The Panel, therefore, agreed to lodge its own Amendments in respect of this particular matter. With regard to Article 7F, Members may appreciate this provides the Minister for Children and Housing the power to amend part 3A and to make further provision by Order. During the briefing, the Panel sought the Minister's opinion regarding this provision and its appropriateness. The Minister advised the Panel the ability to amend the Regulations and make further provision by Order allowed for flexibility in these uncertain times and meant that the Amendments to the Regulations could be made swiftly if necessary. It was further advised that any proposed changes to part 3A or any further provisions would be shared with Scrutiny and other interested parties prior to being made. Despite these assurances, the Panel was still of the opinion that given the nature of the draft Regulations, the power to amend or increase further provision should not lie solely with the Minister for Children and Housing. Furthermore, the Panel noted that following the decision of the States Assembly to approve P.29/2020, which is the enabling provisions, any changes to emergency legislation by Regulation could now be enacted very quickly in order to respond to the current crisis. The Panel, therefore, questioned the necessity of the Order making powers in order to speed up the process of amending or making further provisions to the draft Regulations. It was the Panel's original intention to amend Article 7F rather than to remove it entirely. However, having sought advice, it was agreed that it would be more appropriate to remove the provision for the Minister to amend by Order. The Interpretation (Jersey) Law 1954 allows for any Regulations to be amended by further Regulation under the same Law and, therefore, it is automatically the case that these Regulations, once enacted, can be amended by Regulation at any time. The Panel believes that it is appropriate that the States Assembly has the power to scrutinise any proposed changes or additions to the draft Regulations as a result of the current circumstances, and hopes that Members will support its Amendment. I, therefore, make the Amendment.

#### **The Bailiff:**

Is the Amendment seconded? [**Seconded**] Does any Member wish to speak on the Amendment?

#### **3.3.2 Senator S.Y. Mézec:**

I wish to ask the Assembly to oppose this Amendment. I met Scrutiny earlier in the week to go through the proposed Regulations, as the Chairman has just outlined. They did make some suggestions of changes they would like to see, and their comments paper refers to some of this, and I accepted some of what they were suggesting. On this particular issue, I thought long and hard about

it on the day that they made that suggestion to me and I explored options with Law Drafters to see if there was any potential movement on this. I eventually came to the conclusion that I could not support this Amendment and hope the Assembly will not either. Article 7F, to be blunt, is a “just in case” clause. It exists purely in case there happens to be some completely unforeseeable situation in the future relating to how tenants are protected in the homes they are in that we could not have imagined at this point, some sort of flaw or loophole that would require to be closed quickly to protect people.

[13:45]

We cannot imagine a situation where there is the potential for that to happen and so there is absolutely no intention of having to make further changes to these Regulations, but that is there, as I said, as a “just in case” clause if we were to encounter something that nobody could reasonably have foreseen at this point. I privately undertook, with the Scrutiny Panel, to consult with them before any potential Order was brought by me. I undertake that publicly as well, just to let other Members know that that is what I would intend to do. I would intend to speak to Scrutiny before any Order is lodged to seek their views and input into that. As I said, I do not anticipate that happening but I would be concerned if we ended up in a situation where the Assembly, for whatever reason, was not able to act quickly enough. I do not think the point that has been made about the changes passed at a previous sitting to enable us to bypass the usual procedures we would have to go through by going to the Privy Council is good enough. We are here today sat virtually and that is good and that is convenient, but there may be circumstances in this crisis where even that became something difficult to achieve and difficult to achieve in a timely manner. I would be more comfortable with having the ability to make an Order if that was necessary, consulting with Scrutiny and any other relevant bodies before that. Ultimately, if Scrutiny were unhappy with an Order that I made, they would be able to propose that it is revoked. But, as I say, it is a “just in case” clause. There is no reason to think at this point that it would be invoked and ultimately it falls away at the end of September in any event. I ask Members to oppose this Amendment and that is my case.

### **3.3.3 Deputy K.F. Morel:**

I would just like to state that the Scrutiny Panel obviously undertook this work of scrutiny in an extremely tight timeframe and felt that it was necessary to bring Amendments. We were very pleased that the Minister accepted one of our Amendments and it is a shame that he has chosen not to accept this one. The reason we have proposed this Amendment is because at a time when the Government are removing basic human rights - and I understand why they are doing this but that is what is being done - it is wrong that any person, Minister or otherwise, should have the unilateral power to change the Laws that are removing those rights. In my opinion and the Panel’s opinion, it is absolutely the domain of the Assembly to provide that power and to authorise changes to the Laws during this period of time. I do not accept that just because there is a sunset clause that ends this Law on 30th September we should, therefore, hand complete power over this Law to one person. Importantly, we have already seen the Minister for Health and Social Services bring back Amendments to Regulations successfully to the Assembly. That has been done swiftly, the Assembly has accepted those Amendments to Regulations in order to improve those Regulations and they were brought through very quickly. We can see at the moment how we are convening States Assemblies at short notice. We are undertaking scrutiny at extremely short notice, and so I believe we are quite capable, if the Minister does wish to propose any future changes to this legislation, of turning that round very quickly. I stand by the idea that no one person should have the power to amend Laws, because this Order making power enables the Minister to change any aspect of the Regulations that we are voting on today. I do not believe any one person should have such a power during this time of crisis, because it does affect our basic rights and it does affect the way that we operate in this Island, even if only for the next 6 months. So I do ask the Assembly to retain the power of the Assembly, the ultimate democratic body of this Island, elected by Islanders not just by 48 people as the Government are

elected or Ministers are elected. So, please retain this power, do not just hand it over. It is important at a time when our rights are being removed that we retain such powers.

**The Bailiff:**

Deputy Morel, Senator Mézec would like a point of clarification of your speech.

**Senator S.Y. Mézec:**

Very quickly a point of correction as well. He did just say that this provision enables me to amend any part of these Regulations. That is not accurate. It only enables me to amend parts 7A and 7E. The point of clarification I wanted to seek from Deputy Morel - because he has quite appropriately raised the issue of rights and I believe that is an important angle of this debate - is I would like to ask him if he could clarify which rights in particular does section 7F enable me to infringe and also is he able to balance that against which rights this would enable me to uphold?

**[Interruption to debate due to technical issues].**

**The Greffier of the States:**

We are going to suspend the meeting for 5 minutes for a little bit of technical support for the Bailiff's microphone. We will suspend now. If Members could just stay on the channel and when we are ready to go we will say in the chat box.

**The Bailiff:**

Hopefully Members can hear me. There was a point of clarification raised by Senator Mézec and also a point of correction and we went dead, I think, when Deputy Morel began to speak as a result of that. Are you there, Deputy Morel?

**Deputy K.F. Morel:**

I am, thank you, Sir.

**The Bailiff:**

Very well. If you would like to respond to that.

**Deputy K.F. Morel:**

My response is to ask where in Standing Orders a point of correction resides? Equally, I understood that a point of clarification could not be asked except during somebody's speech.

**The Bailiff:**

The convention has grown up over a number of years, although the Standing Order specifies during the course of the speech, generally people are mindful of not interrupting speakers and ask for the point of clarification at the end. That has certainly, in my time as Presiding Officer, been the way that we have proceeded. The point of clarification can be asked now, Deputy. It is entirely a matter for you as to whether you wish to make any clarification and you are not compelled to do so.

**Deputy K.F. Morel:**

Before I do, Sir, may I ask about the point of correction, which is something I have never heard before?

**The Bailiff:**

Of course it is not technically a point of correction but it is open to a Member to stand up and say that they wish to clarify something within their speech and ask for a point of clarification in your speech. It is not technically a point of correction. That is foreign to Standing Orders but I took an inclusive view to moving things on. That is my response to that. Deputy, if you would like to deal with the point of clarification, if you wish to.

**Deputy K.F. Morel:**

Absolutely Sir, yes, I do. I believe Senator Mézec asked about which rights I felt were being removed. In this case it is contract rights that I am referring to. When I referred earlier to we are passing Regulations that are removing fundamental rights and human rights, I was referring to the Regulations that the Government are passing *en masse* at the moment, the generality of the work that the Government are undertaking. When I referred specifically to these Regulations, it was about contract rights.

[14:00]

**3.3.4 Deputy J.H. Perchard:**

I just wanted to very briefly comment, because these kinds of questions are incredibly difficult and fraught with democratic questions, but I personally was quite satisfied with the explanation that the Minister gave. I feel that having publicly stated that he will consult Scrutiny before making such an Order and explicitly stating that the purpose of the clause was to act as a sort of safeguard against unintended negative consequences in this particular context of a time of emergency and crisis, those explanations are good enough for me to feel that I can support the Minister. Obviously this is an atypical situation and normally any disenfranchisement of Scrutiny members or members of the public, particularly if we are talking about concentrating power into Government hands, would be something that Scrutiny members do meet with caution and reluctance, if not outright disagreement. But I do feel that in this context it is an acceptable explanation. Corporate Services have had similar discussions around legislation that has come through in a very similar, almost parallel example where legislation had been proposed and the Minister for Treasury and Resources was given a power that we discussed and we talked about whether it should come to Scrutiny first in all instances. We decided at that point not to bring that Amendment because of the context of the emergency, because of the fact these things would fall away and because of what I perceive to be a genuine intention of this Minister to safeguard against unintended consequences while also doing the best he can to get these Regulations through as quickly as possible. So in this particular instance I am minded to support the Minister in his position on this.

**3.3.5 Deputy G.P. Southern:**

This one places me in a very strange position of wishing to vote against my Party leader but staying with principles. The principles that are proposed time and time again in this Chamber are that we do not lightly give powers to Ministers because we cannot control that, and that the power should stay with Members of this House. So all we have is power to rescind rather than if it were by Regulation. It needs to be brought to the House and it needs to be brought to Members and decided upon, whereas otherwise the Minister can do what he likes. Nor, it seems to me, is it one of complete and utter trust. This particular Minister for Children and Housing is totally trustworthy but who knows, because this is about Ministers' action in the future, maybe, that this loophole, this ability to amend by Order is exploited. I am in a difficult place. I hope someone can make my mind up and give me a persuasive argument why I should vote with the Minister rather than the principle that says do not give the Minister the right to amend by Order.

**3.3.6 Deputy M. Tadier:**

I have followed this and read through both the Minister's comments on the original Proposition and the Amendment. I can understand where it is coming from and, similar to Deputy Southern, I think it is absolutely right that we do fully scrutinise, even in these emergency times, as best as we can anything that would give the Minister more power and the ability to use an Order where otherwise the Assembly might be asked to make the decision. But I would like to take up a point, presumably what Deputy Morel was referring to as human rights in the balance, and I do sympathise. These are very strange times and we are having to pass all sorts of emergency legislation, which thankfully is

time limited, that encroach if not trample ... but I think I would use the word “encroach” because human rights are always a balancing act. For example, we have already engaged Article 5 human rights, E.C.H.R. (European Convention on Human Rights) and our own, which deal with the right to liberty. That is perhaps the most fundamental right in many ways, apart from the right to life, which is also potentially engaged by this health crisis, that we have got. So it seems strange to me that Members would say that we are happy to give Ministers and pass Laws that encroach on some very fundamental rights. But presumably what we are dealing with here is the right to enjoyment of one’s property versus the competing right, perhaps, of tenants for the enjoyment and respect for private and family life. It seems to me that during an emergency period there could well be a situation that arises from any one of our constituents we might represent on the Island, or whether we represent the whole Island, who might find themselves in an unusual situation whereby the individual needs to make a representation to the Minister for certain powers to be made. It seems that there is a natural safeguard in place anyway because when Ministers make Orders there is a 14 day period where that Order can be challenged by any Member of the Assembly. I put that on as a question mark. That is true. If anyone wants to try and contradict me and if the Attorney General wants to say something about that ... but that is how things work. That is how Orders work. If there is an Order we do not agree with then we can certainly challenge that. My concern is that if we do not give the Minister the requisite powers that he needs in this case we would have an unclear situation by which a tenant would need to resolve their particular issue. I go back to the previous part of the debate where ultimately a lot of this can fall on the courts to decide. If somebody has an issue that is not clear under the Law within their particular tenancy agreement then they would be at liberty to go to the courts at this very difficult time to start being the arbitrator on what is right or wrong within that contract. It does beg the question, of course: why do we have a Strategic Housing Unit and why do we feel the need to have a Minister for Housing if he or, perhaps in the future, she does not have some corresponding powers to use in their armoury to deal with enforcement issues? We give all sorts of Ministers all sorts of powers at any time, irrespective of whether they are emergency powers, to deal with things within their own remit and we trust the Ministers to do that, so I would try and look at this dispassionately, not about - hopefully we do not do this anyway - the individual Minister but about the position. He will, of course, be being advised by his officers as well, and Law Officers included, to make the best decision. I think it is right that if we are going to give emergency powers we trust the Law Draftsmen to do their job in these emergency times. That said, I still congratulate the Scrutiny Panel because none of us is working under an ideal scenario. Even when I act as a backbencher in a serving capacity, you are trying to make decisions for legislation that sometimes has only been lodged for a matter of hours, if not days, and you are trying to do the best that you can. I think we should still act within the delegations of the Convention on Human Rights and I think what the Minister is proposing is entirely compatible with that.

#### **The Bailiff:**

I am aware of an exchange that is going on in the chat concerning a correction that Senator Mézec would like to make. That would not normally be in accordance with Standing Orders but I think in the exceptional position that we are now in and the fact that there is a collateral conversation going on about it, for the narrow purposes of making a correction, Senator Mézec, if you would like to do so now.

#### **Senator S.Y. Mézec:**

It was merely to withdraw the point of correction I attempted to make previously. I had asked if I could make a point of clarification. Then I heard Deputy Morel say something that I misheard and misunderstood and that was what gave rise to my point of correction, which I should not have done because it was my misunderstanding not his, and so I withdraw it.

#### **3.3.7 The Connétable of St. Ouen:**

I hoped that the Senator was going to answer the correction that I had asked and somehow, because of the virtual situation we find ourselves in, was unable to ask. During his speech he mentioned that he had the power only to make this further provision for Article 7A and Article 7E, and it seems that the chat may have caught up with that. It says in the ...

**The Bailiff:**

Connétable, if I could interrupt, Senator Mézec has just corrected that entire point in his statement in the Assembly literally immediately before you spoke, if that assists you in what you wanted to say.

**The Connétable of St. Ouen:**

That is not what I understood he said, but if that is the meaning of his words then I am satisfied.

**3.3.8 Deputy G.J. Truscott:**

I think for the past 6 years when I have been a Member of this Assembly there has been this... not conflict but challenge between Ministerial Government and the Assembly, and Ministerial Orders in particular. There has been a mistrust of them. There has always been, and I am not sure - Deputy Tadier picked it up - if the Attorney General or yourself perhaps could clarify, but I believe it is within 14 days that any Member can challenge a Ministerial Order. If that is the case then I do not really see the issue here other than - and I think Senator Mézec would like this clarified - this is literally for a short period of time. I think that is important to bear in mind. I think we have got to be nimble and swift on our feet, so I am really leaning towards giving the Minister the ministerial power rather than going with Scrutiny on this because I think it is essential that we move quickly. I am also reassured by what Senator Mézec has mentioned, that he will consult with Scrutiny anyway regardless. I really do not know where we are going with this but I personally will be happy to support the Minister in this case. If somebody could clarify the position with the challenge from a Member, if it is within 14 days, that would be useful.

**The Bailiff:**

I am not sure of the period involved, Deputy. I can look at that if it assists, but there is certainly a mechanism where if a Minister makes an Order by Proposition, that Order can be brought into the Assembly for rescindment.

**3.3.9 Deputy J.A. Martin:**

I wanted to add, and I think the point has been really well made, that the minimum wage every year is done by Order. I lay the minimum wage, or the Minister for Social Security does, and it has never stopped, and it should not, a debate to have it rescinded and normally a higher rate. It is quite simple. I have concerns that I do not really understand if everyone is taking where we are, where we were - we were sitting at the Fort, now we are sitting virtually - the urgency that we are in. This all falls away in September. We need to trust. Senator Mézec has said he will talk to Scrutiny, he will tell them if he needs to use it, but if we have to do something really urgently and importantly and it relies on, I do not know, in a month's time, say, how do we convene when maybe people are incapacitated.

[14:15]

This is real time, real emergency time and I do not understand why ... Deputy Morel has talked this morning about the Minister not having trust and suspicion and all I am hearing today is issues and suspicion with the Minister. Please look out the window. There is no one about. Please, you cannot go out. Please, there is an absolute urgency. I am supporting the Minister for Children and Housing all the way. We need the certainty that if something needs to be done it can be done quickly and if it is really unpalatable you can rescind an Order. That is all I have to say.

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

The first issue I have is this is setting a precedent, which has never been done before as far as I know, giving the Minister powers to effectively overrule the Assembly. Not even the Minister for Health and Social Services has asked for such powers and we are in a health crisis. The second issue that Members need to be made aware of is that it is the Minister, and in these times of uncertainty the Minister himself may become incapacitated. We hope that is not the case but even the Prime Minister of the U.K. has been incapacitated. Should that happen, it would be an Assistant Minister. While I have every faith, this is where these systems break down because the Assistant Minister will not be as fully briefed as the Minister and if a key officer is also incapacitated things may be forgotten and due process may not take place. This is why we have these rules and this is why it is important that even in an emergency, in a crisis that we are in, that one is very careful to ensure that the safety nets are there in place. This particular Proposition has been brought within 24 hours. Most of us were only made aware of it late yesterday afternoon and here we are debating it. I think that that is fast enough for any crisis and I do not think you can get much faster than that. I would appeal to Members, we must not set this very dangerous precedent and I ask Members to support this Amendment.

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

I am really following on from the Constable of St. John. Bringing the Regulations in front of the Assembly does not add a great deal of time to the process. We, as a Scrutiny Panel, were first made aware of these Regulations I think it was at the end of last week. A new draft was sent to us on Monday. We had a meeting on Tuesday where one Amendment that we had proposed was accepted, but only yesterday afternoon and, as the Constable of St. John said, here we are debating these Regulations in the States. Having the Regulations being brought before the States does not add a great deal of time when we can have emergency sittings. The second point that has been made by a number of people is that the Minister has agreed he would consult with our Scrutiny Panel, which is very reassuring but, of course, we will not be able to make an Amendment to those, or certainly not an Amendment that he does not agree with. So that is why again I think it is important that these Regulations cannot be changed without the full agreement of the States.

### **3.3.12 Senator K.L. Moore:**

I am pleased to follow the previous 2 speakers who have covered most of the areas that I wish to make, so I will keep this very brief. We are a legislative assembly, as the speakers have rightly alluded to, and I think in recent weeks Scrutiny Panels have shown their great ability to respond to legislation and to conduct legislative scrutiny in very rapid order. We have seen already P.41 withdrawn yesterday, P.31 has been called in, and the process has worked in a very good fashion. I have to congratulate all of the States Greffe who have worked so tirelessly to assist us in doing so. At this time of difficulty, I think it is really important that the public is given the reassurance that the checks and balances are there and that they are working. I believe that the Minister for Children and Housing in this instance has not adequately expressed what sort of Orders he envisages that he may need to bring with such urgency that would not be suitable for the environment that we find ourselves in today and responding very quickly to new legislation that has been proposed. I would urge Members to support the Amendment of the Scrutiny Panel.

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

A lot has been made about the fact that it is urgent timing and so on. I totally agree with the comments being made by Senator Moore. However, I did spend a while as a civil servant and we loved Orders as we never got any hassle from the States if you timed them correctly. If you put any sort of legislation that was a bit tricky or anything like that through at the start of a holiday like August, the odds are it will not get opposed because everybody is sitting on a beach somewhere. Looking at the speed with which we have managed to deal with this particular piece of legislation, I think this wanting to do it by Order is overkill and I think let us have Regulations. OK, it may take 3 days instead of one, but I do not think that is unreasonable.

### **3.3.14 Deputy K.G. Pamplin:**

My first point was to make a clarification that a previous speaker spoke about, that the Minister for Health and Social Services had Order making powers in Regulations that he introduced that we adopted a couple of weeks ago. I just wanted to raise that point on behalf of the Minister, who I do not know has spoken already but I thought I would raise it as we did scrutinise that. Secondly, we have also had a couple of ministerial decisions that were sent to us as a Scrutiny Panel, which gave us the ability to question the Minister and also bring that into our continual inquiry work into the response of the Minister and his Department during this crisis. At the right time, which is not now, we will be obviously getting to the end of that inquiry to review the whole process but that is not now. Now, listening to the debate, I can only agree that what Senator Mézec is saying is fine and that if those processes continue, like I have seen and others have seen, I think the sentiment here is we need to move on. It is great that Scrutiny is working as it is, because I have publicly stated all the way through this crisis that the public that we serve demand to know that we are asking questions to help and constructively support Government to improve on the hoof - I do not know if that is a parliamentary expression or not - so we can improve things as quickly as possible and then bring them back, also as timely as possible. Our priorities, as much as I love my role as a States Assembly Member, are so widespread at the moment that we need to be seen to be moving as we are. That is why I think at this stage I am convinced to not, I am afraid, this time support my colleagues in Scrutiny with this Amendment. That is what I wanted to say.

### **3.3.15 Connétable S.A. Le Sueur-Rennard of St. Saviour:**

I am absolutely fascinated by the message that Senator Mézec has just put up. He said: "The reason I have not expressed what sort of Orders I would be bringing is because I have no intention of bringing any." If he has no intention of bringing any, why on earth are we just wasting our time discussing this when Scrutiny had already said we would be there for them? I really do not understand. This has been a time wasting exercise, in my opinion, if the Senator is not prepared ... because he has no intention of bringing any.

### **3.3.16 Deputy R.J. Ward:**

I just thought I would make a comment. So much has been said. One of the new features we try to include in all Scrutiny is that all of these Orders are timed out, so to speak, on the end of September, and these are. I think what we have is a particular situation with housing that we have not seen before on this Island. Housing is such an essential part, a basic human right, and I think the discussion on human rights is intellectualising away a need at the moment. It is such a basic human right that we need to be certain that in this time of absolute ... none of us really know the outcome of this situation long term that we have to enable a reaction. In terms of trust, I think we have trusted a number of Ministers, perhaps sometimes when we would not as much as we are now for all sorts of reasons, but we have done that because we have to work together in order to try and get through this crisis and particularly to enable people to stay in their homes and the situation we have in terms of housing not to collapse on this Island. If there needs to be some flexibility and some quick action, which can come back to Scrutiny, then I think we need to allow that. I am not sure I can support this Amendment either.

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

This Amendment essentially is about trust. The Scrutiny Panel do not trust this Minister. They suspect that he will pull a fast one and bring in other measures that they may oppose. Now, I do not agree with that. The Minister has said, in fact he gave an undertaking to the States to say, before he brings in any Order he will consult with the Scrutiny Panel. If he failed to do that he would face an immediate vote of no confidence and it would be one that I would support unless it was in exceptional circumstances. I might also add that I have supported Regulations that have given other Ministers Order making powers. I may not trust them at other times but I am, during this emergency, giving

them the benefit of the doubt and I believe that we should all give Ministers the benefit of the doubt at this particular time. If they fail to act honourably they will face the consequences later. The other thing I would like to say as well is - and I hate bringing this up but it is thought of out in the public - if I am not mistaken, and I stand to be corrected, all the members of the Scrutiny Panel are landlords. Is it the fact that they do not agree with this particular Minister because they suspect his motives, that they think he may bring in other draconian measures against landlords, or what? The point is the perception will be there if they are landlords that they are preventing him doing his job and I would ask all Members to consider that. We are operating in exceptional times and I hope Members will do the honourable thing.

**The Connétable of St. Saviour:**

No, I am not a landlord.

**The Bailiff:**

I am sorry, Connétable. It cannot be just an interjection and free for all. I am afraid not.

**3.3.18 Senator J.A. N. Le Fondré:**

Very briefly, and I think it is worth reiterating. I do not often quote something that Deputy Tadier has said but I think he probably hit the nail on the head. What he said is the problem of unforeseen circumstances is you do not see them coming. That is the point here. Going back to the point I made in the earlier part of this debate under the principles, we are in a crisis. It does require people to act swiftly at many times and this is basically giving the Minister the ability to act swiftly in circumstances that he cannot at the moment envisage. Some people will say it does not take that long, we can put the Regulations through, we can have an emergency Assembly and all that type of stuff, but potentially that is going to be 2 or 3 days.

[14:30]

Depending on the circumstances, and I do not know what those circumstances might be, the Minister may be trying to react or act quicker than that time period. That is really what this is all about. I am quite uncomfortable in going up against the principle of Executive *versus* Scrutiny, or Order making powers *versus* Regulations but, as has been already pointed out, other Ministers have been granted Order making powers during the time of this crisis. The final point I would like to make, which I hope gives some comfort to Members - again, it has been alluded to already and I do not know if Members have noted it - is that obviously the Proposition is referring to it is called part 3A and is Article 7A all the way down to 7G. The Order making power only relates to 7A to 7E, i.e. the fundamental parts of the Amendment we are talking about, and all of part 3A will expire on 30th September 2020. My reading under this is that any Amendments to 7A to 7E by Order would still have to expire on 30th September 2020. Therefore, there is a degree of comfort, one would hope, other than the fact that Orders can always be challenged by any Member of the Assembly, that they would be time limited. That is something I think we have tried to do on almost every piece of legislation that has come to the Assembly under the emergency sittings that we have had to do. That is why unfortunately I will be, if you like, supporting the Minister and I will not be supporting this Amendment and I would encourage other Members to do so on the basis that we are in a crisis. This is to cover an unforeseen eventuality in the event the Minister has to move swiftly.

**The Bailiff:**

Does anyone else wish to speak on the Amendment? I close the debate and I call on the Connétable of St. Brelade to respond.

**3.3.19 The Connétable of St. Brelade:**

I thank Members for their contributions. I can understand the Minister's reticence to accept the removal of 7F but my Panel's advice in the short term available was that this was the correct route.

The problem as we saw it was that changes by Ministerial Order are not easily influenced by this Assembly and in this situation the States must be able to retain that. The public have a right to proper governance, whether it be tenant or landlord, and whoever the Minister may be on the day, this must be paramount. I do not subscribe to the landlord party or the tenant party and I am uninterested in personalities or whoever may be the Minister of the day but simply wish to make sensible and balanced decisions in these unprecedented times. I would urge Members to support the Amendment and ask for the *appel*.

**The Bailiff:**

The *appel* is called for. In just a moment the Greffier will put a link on the chat in the normal way. Members will see that there is a link on the chat. If they would vote in the way that has been taking place during the course of today. Please click on the link and register your vote and press submit.

<b>POUR: 15</b>		<b>CONTRE: 27</b>		<b>ABSTAIN:</b>
Senator L.J. Farnham		Senator J.A.N. Le Fondré		
Senator S.C. Ferguson		Senator T.A. Vallois		
Senator K.L. Moore		Senator S.W. Pallett		
Connétable of St. Lawrence		Senator S.Y. Mézec		
Connétable of St. Saviour		Connétable of St. Helier		
Connétable of St. Brelade		Connétable of St. Clement		
Connétable of Grouville		Connétable of Trinity		
Connétable of St. John		Connétable of St. Peter		
Connétable of St. Martin		Connétable of St. Ouen		
Deputy of St. Martin		Deputy J.A. Martin (H)		
Deputy L.B.E. Ash (C)		Deputy G.P. Southern (H)		
Deputy K.F. Morel (L)		Deputy K.C. Lewis (S)		
Deputy of St. Peter		Deputy M. Tadier (B)		
Deputy S.M. Ahier (H)		Deputy M.R. Higgins (H)		
Deputy I. Gardiner (H)		Deputy J.M. Maçon (S)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Ouen		
		Deputy L.M.C. Doublet (S)		
		Deputy R. Labey (H)		
		Deputy S.M. Wickenden (H)		
		Deputy G.J. Truscott (B)		
		Deputy of St. John		
		Deputy M.R. Le Hegarat (H)		
		Deputy J.H. Perchard (S)		
		Deputy R.J. Ward (H)		
		Deputy C.S. Alves (H)		
		Deputy K.G. Pamplin (S)		

**3.4 Draft COVID-19 (Residential Tenancy) (Temporary Amendment of Law) (Jersey) Regulations 202- (P.42/2020) - as amended**

**The Bailiff:**

We now return to debating Regulation 1, as amended (sic). Does any Member wish to speak on Regulation 1, as amended (sic)? Very well. If no Member wishes to speak on Regulation 1 ... Connétable of St. Ouen.

### **3.4.1 The Connétable of St. Ouen:**

It is just a small point for the Minister to consider, and I know that in compiling this Law he has had a lot of points to think about, but one of my concerns is for tenants who are in financial difficulty and who are not paying their landlord - and possibly have fallen out with the landlord - is that in smaller establishments such as lodging houses, the landlord has the ability to cut off some or all of the utilities to that particular tenant, in which case it would probably render the accommodation that that tenant is living in uninhabitable. I just wonder whether the Senator could consider some sort of Amendment which would prevent that sort of thing happening. He may wish to phrase it in a more general way than I have, but certainly it would be one of my concerns that that could be something that is taken as a back door route to get a tenant out the door in the current circumstances.

#### **The Bailiff:**

Does any other Member wish to speak on Regulation 1, as amended (sic)? If no other Member wishes to speak, then I close the debate and call upon the Minister to respond.

### **3.4.2 Senator S.Y. Mézec:**

Just in response to the Constable of St. Ouen, unfortunately the situation is worse than he suggests, in that I have evidence, unfortunately, of at least one case where that has happened. Thankfully that is a situation that we are able to pick up on and find emergency accommodation for that person, so it is not an issue we are able to reconcile in these Regulations right here and right now, but it is a concern. I would perhaps exploit this opportunity just to remind Members that we have an emergency housing team put together and if they are aware of instances of this sort of treatment that is inappropriate, people acting illegally or people who are ultimately just unlucky and need a bit of help, then to not hesitate to get in contact with us, because the more information we have, the more we can think about how we can respond to that. But for the first Regulation, I call for the *appel*.

#### **The Bailiff:**

The *appel* is called for. Very shortly a link will be placed on the screen by the Greffier. It might be just a moment or 2 on this occasion. Very well, then the link has been placed up. If Members could vote in a way that has become familiar. We are going to reissue the link. None of the responses have been registered, so the link has come again. Could Members now vote again, please, on the same Proposition using the link that has just appeared?

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

My link does not work, Sir.

#### **Deputy S.M. Wickenden of St. Helier:**

It is saying that we have already submitted a vote on that link.

#### **Deputy R.J. Ward:**

Yes, I am getting the same, Sir.

#### **The Bailiff:**

Thank you very much. We are cancelling that vote then and we will see if we can reset it very shortly, failing which we will have to move to an alternative method of registering the votes.

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

Is the Minister happy to have it done by the metaphorical standing vote?

#### **The Bailiff:**

That is a matter for the Minister, but if you give people just a moment or 2, hopefully we will sort things out.

**Senator S.Y. Mézec:**

I would prefer for it to be a recorded vote.

**The Bailiff:**

That is your right, Minister. We shall work on that now. Very well, a link has come up again that hopefully will work, and could Members now register their vote through that link? Thank you.

**Deputy R.J. Ward:**

It is saying Regulation 1, as amended. Is that correct?

**The Bailiff:**

Yes... If you remember, the Amendment was rejected, so it should not be as amended, it should be Regulation 1, unamended. A vote *pour* on this link will be a vote for Regulation 1 not as amended, no matter what it says.

<b>POUR: 40</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham		Connétable of St. Brelade		
Senator S.C. Ferguson		Connétable of Grouville		
Senator J.A.N. Le Fondré		Connétable of St. John		
Senator T.A. Vallois		Deputy of St. Peter		
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy G.J. Truscott (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				

Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

**The Bailiff:**

Very well. Minister, do you now propose the second Regulation, which is just, I think, the citation?

**3.5 Senator S.Y. Mézec:**

That is right, Sir. I propose the second Regulation, which as Members can see, it is very simple and simply says that the Regulations come into force on the day after they are made, so that enables us to move quickly.

**The Bailiff:**

Is that Regulation seconded? **[Seconded]** Does any Member wish to speak on Regulation 2? Do you wish to speak, Deputy Martin? You have just put “yes” as opposed to “speak”. Right, so no. Very well.

**Senator S.Y. Mézec:**

I think she was seconding, Sir.

**The Bailiff:**

I think that is right. Thank you very much. Very well, if no Member wishes to speak, we will do a simple recorded *pour* or *contre*, so those Members who are in favour of adopting, please indicate *pour*; those who are not in favour of adopting, please enter *contre*. Very well, we have crossed the necessary threshold. Regulation 2 is adopted. That deals with all the matters in the Second Reading. How do you deal with the matter in the Third Reading, Minister?

[14:45]

**3.6 Senator S.Y. Mézec:**

Just to take the opportunity to thank Members for their contributions to the debate today. Whatever disagreements there have been, it has been quite an enjoyable debate, given the circumstances we are in, but also if I could just place on record my thanks to the officers who worked extremely hard in a short space of time to get this together. To all of those who we consulted with in that process, as I said earlier, extraordinary measures in extraordinary times, but people are going above and beyond to make these things happen, so I propose this in the Third Reading.

**The Bailiff:**

Is it seconded in the Third Reading? **[Seconded]**

**3.6.1 The Connétable of St. Brelade:**

It is really just to assure Members that despite the result of the loss of the Amendment, the Scrutiny Panel are on station to provide rapid response to any Ministerial Decisions that may be made and we would confirm we are there at the disposal of the Minister, should he so need us.

**The Bailiff:**

Very well. Does any other Member wish to speak in the Third Reading? Minister, do you wish to respond?

**3.6.2 Senator S.Y. Mézec:**

Can I thank the Chairman of the Panel for saying that. I reiterate my commitment that if anything does come up and there is a view that anything needs to be changed, I will of course keep to my word and consult with the Scrutiny Panel before such an Order is made so that they can have meaningful input into that, rather than let them know after an Order has been made and have it as a token gesture in that way. So I promise to stick to that, although I would be astounded if we got to that point anyway. I call for the *appel*.

**The Bailiff:**

The *appel* is called for. We will have a link appearing in the usual way and Members will please vote using the link. Are you getting some back now?

<b>POUR: 41</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham		Connétable of St. Saviour		
Senator S.C. Ferguson		Deputy of St. Peter		
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy G.J. Truscott (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

## QUESTIONS

### 4. Questions to Ministers without notice

#### The Bailiff:

Very well. We now come on questions for any Ministers without notice. Again, if I just remind Members, if they would indicate that they would like to ask a question and it would be helpful if they could say which Minister the question is towards. I will assume that the Member asking will want one supplementary to follow up, so I will allow sufficient time for that. Deputy Pamplin.

#### 4.1 Deputy K.G. Pamplin:

My question is for the Minister for Health and Social Services. Will the Minister for Health and Social Services publish publicly or to our Scrutiny Panel the findings and results of the flu pandemic exercise held on Wednesday, 20th November, and also what the stock levels were of P.P.E. on the Island at that date?

#### The Deputy of St. Ouen (The Minister for Health and Social Services):

An interesting question. First of all, I am not sure what is in my power regarding that publication because the emergency planning exercise was not something within my remit or the Health and Community Services Department. I believe though of course we participated in it, but I am very willing to discuss with the Deputy what thoughts he has, exactly what he might want and what on a governmental basis can be made available.

#### 4.1.1 Deputy K.G. Pamplin:

Thank you, Minister. Yes, the exercise was led by Dr. Ivan Muscat. He is correct. Obviously it was an emergency planning exercise, but also involved bringing over 2 N.H.S. (National Health Service) authorities, also working in conjunction with the States of Guernsey health authorities as well. If he cannot, I am sure he will seek what information we are seeking as a Scrutiny Panel, but specifically the levels of P.P.E. recorded at that time and the levels of P.P.E. now so we can reassure members of the public that all members of our healthcare providers, from the front line right through, have the required amounts and also for us to be able to judge what we had at the end of that exercise.

#### The Deputy of St. Ouen:

Yes, I think the Deputy was giving specific information there as to what he wished, so yes, I will go away and I will try and see how much of that is recorded and the extent to which we can pass that information on.

#### 4.2 Deputy I. Gardiner:

We are in fact producing lots of new guidelines for businesses which should protect their staff and the general public. With these new stricter guidelines applying to virtually almost every business which is allowed to operate during the outbreak of COVID-19, would the Chief Minister advise what extra resources are being allocated to Environmental Health to enable them to inspect premises, impose guidelines and protect employees and the people of Jersey in this emergency?

#### Senator J.A.N. Le Fondré (The Chief Minister):

I think the short answer is for, let us call it, the compliance or control or compliance in terms of adherence to the various guidelines and Regulations. There are extra resources being brought in from within the other parts of the Civil Service to enhance that compliance. For example, I believe officers from D.V.S. (Driver and Vehicle Standards) have been brought in. Obviously they make sure they have got the relevant training, but in terms of personnel and feet on the ground, that is where the extra resource is coming in from.

#### **4.2.1 Deputy I. Gardiner:**

Would the Minister consider to allocate special emergency funding to enable inspection and enforcement on construction sites, shops, farms and other premises, including nurseries, for example, to ensure that they are observing the rules and taking all required steps? It is about allocation of extra funding to bring people in, to bring inspectors in.

#### **Senator J.A.N. Le Fondré:**

I think the point is the compliance is being done, if you like, out of normal funding, but what I was saying is by bringing in extra resources in terms of people from other Departments who are less active at the moment, for example, understanding there are very few ... well, I think no vehicle registrations happening at the moment, therefore those personnel have been reallocated elsewhere in the organisation and, in this instance, they are helping with the compliance, particularly I think on building sites, but other areas as well. So there is not a need to allocate extra funding, it is more a case of just reallocating personnel and that is already happening.

#### **4.3 Deputy K.F. Morel:**

Would the Minister please explain to the Assembly the legal basis for the licence to operate that he is issuing to contractors in charge of construction sites?

#### **Deputy K.C. Lewis of St. Saviour (The Minister for Infrastructure):**

The Deputy was breaking up a little there, but I think he was talking about construction site licences. I have just been involved with 2, Sir. Hue Court is a medical facility, so that needs to be finished off, and obviously all the Health and Safety Regulations are being adhered to there. The other one was a care facility that will be used for hospital patients who have suffered from COVID-19 and will be recovering and they will be going to a care home, which will be used exclusively for that purpose. That was the second one.

#### **4.3.1 Deputy K.F. Morel:**

If I may, I appreciate I may have been breaking up. That was not my question; that was not an answer to my question. My question was could the Minister explain to the Assembly the legal basis for the licence to operate that he is issuing to contractors in order to keep their construction sites going? I am looking for the legal basis for these licences that he is issuing.

#### **Deputy K.C. Lewis:**

Well, several others... of course the sewerage plants, which is obviously a matter of health for the people of Jersey, that will be ongoing. Of course everything will be adhered to health and safety-wise and repairs to the Energy from Waste plant are ongoing. Basically it is things that come under my remit.

#### **Deputy K.F. Morel:**

Am I not being heard?

#### **The Bailiff:**

No. Minister, the question is the legal basis for the actions that you are taking, in other words under which Law or which legal instrument or which power are you taking the steps you are taking. Is that a fair characterisation, Deputy?

#### **Deputy K.F. Morel:**

Yes, Sir.

#### **Deputy K.C. Lewis:**

Yes, all but one come under my remit.

**Deputy K.F. Morel:**

I could not hear ...

**The Bailiff:**

Do you wish a supplementary, Deputy?

**4.3.2 Deputy K.F. Morel:**

I could not hear the response, so my supplementary will be the original question. Would the Minister please provide the Assembly now with the names of the Laws and the Articles, reference the Laws, the Articles, the Regulations under which he is issuing licences to operate to contractors for their construction sites? I would like to know a clear legal basis for these licences.

**Deputy K.C. Lewis:**

I will speak very slowly. The premises I have mentioned, all but one come under my remit.

**Deputy K.F. Morel:**

But the Minister is issuing them to more than just his remit. He is meant to have a legal basis for these licences.

**Deputy K.C. Lewis:**

I have signed off on 2.

**Deputy K.F. Morel:**

Under what Law, Deputy?

**Deputy K.C. Lewis:**

As Minister for Infrastructure, Property Holdings form part of my remit.

**Deputy K.F. Morel:**

That is not a legal basis, Deputy.

**The Bailiff:**

No, I am sorry, Deputy. I think you have asked the question on more than occasion and the Minister has answered it in the way that he wishes to answer it.

[15:00]

If anything arises, I think it must be taken elsewhere because there are a number of others who are now wishing to ask questions. I have Deputy Doublet, Deputy Southern, the Connétable of St. Saviour, Deputy Ward, Deputy Perchard, Deputy Ash, Deputy Higgins, the Deputy of St. Martin, Deputy Ahier, Deputy Tadier, Senator Moore, Deputy Alves, the Connétable of St. Peter and the list moves on, so we really must move on, I am afraid.

**4.4 Deputy L.M.C. Doublet:**

My question is for the Minister for Economic Development, Tourism, Sport and Culture, and I would like to ask him about the payroll co-funding scheme for self-employed people who have taken parental leave. How will he ensure that self-employed people who have taken leave, parental leave, for the calculation period which is used to calculate wages for the payroll co-funding scheme, how will he ensure that those [offline] ... when calculating their usual level of income?

**Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):**

The plan is for the calculation to be based on the last quarter of 2019 for self-employed. For those involved on leave for that period, I would imagine that another quarter would have to be assessed, perhaps their last quarter before they took the leave, but I would need to seek clarification on that.

**Deputy G.P. Southern:**

In the week of 13th March it was agreed between ...

**The Bailiff:**

Sorry, Deputy, who is this directed towards, which Minister do you wish to direct ...

**4.5 Deputy G.P. Southern:**

Sorry, this is directed at the Minister for Health and Social Services. I have just got silence. Can I be heard?

**The Deputy of St. Ouen:**

I am ready to answer the Deputy's question.

**Deputy G.P. Southern:**

In the week of 13th March it was agreed between G.P.s (general practitioners) and the health service that they would make phone contact with vulnerable patients over the weekend and this was to be at no cost to the patient and yet we still find people receiving bills to the tune of £45 for a telephone consultation. What measures is the Minister going to take to either ensure that these bills are paid or that they are quashed, because many of these are economically vulnerable people?

**The Deputy of St. Ouen:**

A sum of money was agreed with the G.P.s to fund their costs of phoning or contacting vulnerable groups and persons over 80. There was to be no charge to those patients, because it was fully funded by ourselves, the Government. If a charge has been made to any of those patients, then if the Deputy could give me details, I will pass it on and we will see, because that is clearly a mistake. However, at the same time during the period the Deputy refers to, we introduced an Order which allows consultations in the normal way that G.P.s hold to take place either by telephone or over Skype or similar and that would be chargeable if it fell outside the scheme I was first referring to, so if a bill has been sent on that basis then it is properly payable. I think we just need to establish if the Deputy has a constituent with that issue, we can establish exactly which scheme it fell under.

**4.5.1 Deputy G.P. Southern:**

Sorry, that is very unclear to me. You have got 2 schemes up and running, one of which was supposed to be no cost and one of which is a cost. How is anybody supposed to distinguish between the 2? I have got a statement here that says: "Adult telephone consultation, 18 and over, £46" from Health Plus. There must be many more of those. It is dated 26th March. In any case, these are vulnerable patients and many of whom cannot afford to receive and pay a bill for £46. Will the Minister act to ensure that no hardship is caused to any of these patients?

**The Deputy of St. Ouen:**

Yes, certainly I will act. I would like to have the details. It occurs to me there is one way of seeing exactly what has happened here because the initiative for G.P.s to contact vulnerable people was to be something that they would be proactive about, they would take the initiative, they would make the contact, so if the bill is for a G.P. having made the contact, then it should not be billed, but if the bill is in response to a call that has been made by a patient to the surgery asking for a consultation, that would seem to be the normal business of G.P.s and would be billed in the normal way. I wonder if that helps. I am very willing to talk it through with the Deputy and we can examine this and see if anything has gone wrong.

**Deputy G.P. Southern:**

I do not have the officers that he has, so he might be able to deal it more easily than me.

**4.6 The Connétable of St. Saviour:**

This is for the Minister for Children and Housing. Andium are the biggest landlords in Jersey and with that in mind, can the Minister make the Assembly aware of what measures are in place to raise the awareness of the not contacting each other and having a social distance? Because my Chef de Police is having a bit of a problem with antisocial behaviour on some of the Andium properties by the tenants. Can the Minister explain what measures Andium Homes are putting in place to improve the awareness for the tenants of Andium? Thank you.

**Senator S.Y. Mézec (The Minister for Children and Housing):**

I think the job of awareness on this ultimately lies with the Government and we are in the middle of perhaps one of the biggest awareness campaigns that the Government have ever undertaken. But I do know that Andium is undertaking welfare checks of who they consider to be their more vulnerable tenants, those people who might be harder to reach with campaigns like that and making sure that they are OK and obviously doing so in the safest way possible. But if the Constable has particular concerns about particular areas or parishioners, then I would ask her to get in contact with me and I can ask specifics if she is worried about particular cases.

**The Bailiff:**

A supplementary, Connétable? In which case I will assume not. Deputy Doublet, you have raised a point of order concerning ... we appear to have difficulty when we get to the supplementaries. That is 2 people who have indicated they would wish to ask supplementaries, Deputy Doublet and the Connétable, whose sound had cut out. I will try and come back to both of those at some point in the future of this questioning, but I think we have to move on at this point.

**4.7 Deputy R.J. Ward:**

This is a question, I believe it will be for the Minister for Health and Social Services, but it may be passed on because it is very difficult. It is about P.P.E. and in particular the use of cloth masks. When staff are being ... for example, it was brought to my attention today that those volunteering at Easter in schools are requested to wear a cloth mask. Can the Minister say what the purpose of that is and will they be supplied for staff and for wider staff on the Island, such as in retail, where they are so important to the Island at the moment?

**The Deputy of St. Ouen:**

Yes, there has been quite a bit of confusion over masks. I am pleased that the Medical Officer of Health has made a clarification this week and in fact moved his initial stance in the light of further evidence that has come to light. My understanding of the expression "cloth masks" is they are the sort of masks that we might wear in the community, homemade masks perhaps. In hospital and care environments, I do not think they are generally referred as cloth masks. They are surgical grade masks, medical grade or they are a different construction and specification, but perhaps that is just terminology. I think the Deputy is asking about will I ensure that these masks are available in the right environments and, yes, we hold a duty of care to employees in the community. We recognise the duty of care that other care providers hold. It has been agreed, as all care providers now are working together, to co-ordinate our P.P.E. and we are constantly putting orders in. We are getting deliveries through but it remains a challenge, as it does worldwide. But at the moment I am assured that we have adequate supplies of P.P.E. for the Island's needs at this time. That does not mean to say for weeks and months ahead, because we still need to get orders in. There is also confusion about exactly what is required to be worn when. It is not always the case that a mask needs to be worn, it is only if a G.P. has declared that there is a suspicion of COVID-19, then it is necessary, I understand,

to start wearing a mask, then different masks will be worn in different environments. There is detailed guidance that has been given by the Medical Officer of Health and that has been communicated to all care providers and I hope this situation is settling down. I can understand why people have been anxious. None of us have faced a situation like this before and we are all afraid for people we love and people we care for and it is natural to want to protect ourselves and them, but I think good guidance has now been issued. We have got good supply routes and I am as confident as we can be that we will be able to source adequate P.P.E. I hope that answers the question.

#### **4.7.1 Deputy R.J. Ward:**

The supplementary, I would like to ask the Minister whether guidance has been given to staff going into schools at Easter to wear cloth masks, and if that is the case, what level of protection is he hoping they will give, given it is questionable as to whether they simply stop the person wearing them spreading the disease a little more? Some clarity needs to be made in the advice that has been given.

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

I have to say I am not aware of guidance being given to schools or school staff for the return to work or for present staff in schools, so I can enquire about that, but just at the moment I am not aware. I have not heard of any confusion about the recent announcement from the Medical Officer of Health with his views as to the efficacy of cloth masks. I thought it was clear enough that they would stop me being a danger to you if I was walking near you or in your presence, because they would capture many of my droplets from spreading out into the air. That is what I understood is the benefit of wearing cloth masks.

#### **4.8 Deputy J.H. Perchard:**

Chief Minister, in units of weeks or months, how far into the future have the Government planned with respect to the impact of coronavirus on the economy?

[15:15]

#### **Senator J.A.N. Le Fondré:**

On the economy side, there are 2 aspects to that. There is the co-funding scheme, which was obviously initially announced out to 3 months and, in terms of looking then at let us call it an exit strategy, we are starting to look at that and that includes both the financial and economic impacts, but also how when we eventually get on the other side of the peak how we step up or step down the actions that we have taken, and then ultimately how we come out of this. As I said, at this stage we are looking at the curve that has been issued to Members earlier today. It is also, as I keep emphasising, very early in this game, for want of a better expression, in dealing with the statistical analysis and because we are dealing with small numbers it means that we must be aware that results that look very positive at the moment are still at the small level of samples. That is why the on-Island testing is very welcome as of yesterday.

#### **4.8.1 Deputy J.H. Perchard:**

My question was on the economic forward planning. It does not sound like we are doing any forward planning based on that answer, so can the Chief Minister clarify whether any long-term planning with respect to the impact on the economy has yet been done and who is responsible for leading this longer term piece of work?

#### **Senator J.A.N. Le Fondré:**

I do make the point again that we are in relatively early days and the big focus in the last few weeks, the main focus has been on preparing for the impact of the increase in the curve, so in other words, we are only one month in. In fact, it is 9th April today and I think the first positive case was notified on 10th March, but there is work which has been commenced with the input from the Chief

Economist and other officers and that is with a view to developing what we are calling a recovery plan, which is effectively going to be the next Government Plan, but it is branded as the recovery plan. Work is happening on that, but the caution I add is that I would hope the Deputy will not then ask for a copy of it for tomorrow because it is in its early stages. We are very much focused on the medical side of things and the various preparations we have had to make over the last month and in the forthcoming days, but we are looking at the development of a recovery plan. Obviously that will be from the Economic Adviser having a team together and obviously with Treasury input and policy. The Council of Ministers will be leading on this.

#### **4.9 Deputy L.B.E. Ash:**

My question surrounds supply lines. First of all, thank you very much to all who run our supply lines tremendously well, especially the supermarket workers, who I think we would all agree have done a fantastic job. However, in the unlikely situation - and I believe it is very unlikely - that these lines are disrupted, have we been stockpiling essential goods, including food?

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

Given the robustness of the current lines and the options available to us, it is highly unlikely that that scenario would happen because we are supplied so regularly from south coast ports in the U.K. I would also add that increased potential capacity had been already planned in a detailed way due to all of the Brexit work we have been doing. No, we are in constant touch with the large supermarkets, but no, as far as I know, no large amounts of stockpiling is currently taking place on-Island.

#### **4.9.1 Deputy L.B.E. Ash:**

Would he undertake just to do a review of whether we should, even if it is just the bare essentials, that if things really ... push did come to shove we would have some sort of supplies to work with for a period of time?

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

The situation, so I can inform Members and the Deputy, is constantly under review with regular discussions between shipping companies, food providers and officers. One of the problems we have is because we import so much of what we consume, we simply would not have the space on-Island to store more than perhaps a few days or a week or 2's supply. Evidence so far has said that that is just not necessary, but to reassure Members, those discussions are constantly being had, especially given the current crisis.

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

Does the Minister accept that the key to continuing support of the public and our medical professionals and workers is honesty and transparency and that recent evasive and/or incomplete answers by the Minister and his officers about personal protection equipment (P.P.E.) are eroding that trust? Will he tell Members and the public about the current level and type of P.P.E. equipment, ventilators and continuous pathway airway breathing equipment that we currently have and will he provide accurate information now and in the future about stocks and the supply chain problems we have and deliveries?

#### **The Bailiff:**

Minister, are you able to answer? Deputy, we appear to have lost the Minister for Health and Social Services, therefore I will move on to the next question and come back to that one if he becomes available again.

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

It is a question for the Chief Minister. Does the Chief Minister think we need a field hospital?

**Senator I.J. Gorst:**

I am just wondering if both the Chief Minister and the Minister for Health and Social Services are not being heard. There might be a technical problem at Broad Street.

**The Bailiff:**

Are they both at Broad Street then, Senator?

**Senator I.J. Gorst:**

As far as I am aware.

**The Bailiff:**

What I will do is I will then move on to a different question. Again, we will come back to those and if someone in the meanwhile could investigate the difficulty, if there be one, with Broad Street. Deputy Ahier for the Minister of Treasury and Resources.

**4.10 Deputy S.M. Ahier of St. Helier:**

Will the Minister advise the Assembly what actions she has taken to secure a £250 million bond which may be required by the Treasury to ensure necessary economic stimulus during the pandemic?

**Deputy S.J. Pinel of St. Clement (The Minister for Treasury and Resources):**

I thank the Deputy for his question. The £250 million bond, I think probably the Deputy is referring to the previous ... in fact, the only one I am aware of was for the previous hospital build. What has been established and agreed by the Assembly is borrowing of up to - only up to - £500 million on a loan equation and also using up to £400 million from the Strategic Reserve Fund.

**4.10.1 Deputy S.M. Ahier:**

Have any loans been thus far secured to make cash available?

**Deputy S.J. Pinel:**

Not thus far from banking, purely from the reserves that we have, and what we are very much aiming to do and hoping to progress with is liquidating cash that we have and securing any equities, which as the Deputy will know are very volatile and we do not wish to have to be in a position of cashing those in, so it is purely at the moment to liquidising cash that we have. If we then proceed with a loan from the bank, that will be on a situation which only puts us in a borrowing situation if we need to borrow the money, so not a fixed sum of borrowing.

**The Bailiff:**

Very well. Can I ask if the Minister for Health and Social Services is online at the moment?

**The Deputy of St. Ouen:**

Yes, I am, Sir. I am sorry my answer did not ...

**The Bailiff:**

No, not at all. I will ask Deputy Higgins to repeat his question. Deputy, yes.

**4.11 Deputy M.R. Higgins:**

The question was: does the Minister accept that the key to continuing support of the public and our medical professionals and workers is honesty and transparency and that recent evasive and/or incomplete answers by the Minister and his officers about P.P.E. are eroding that trust? Will he tell Members and the public about the current level and type of P.P.E. equipment, ventilators and continuous pathway airway breathing equipment that we currently have and provide accurate

information now and in the future about stocks and the supply chain information and problems that we have?

**The Deputy of St. Ouen:**

My watch words are honesty and transparency. I will always attempt to be honest and transparent with members of the public and with Assembly Members. I do not believe that I was evasive, but I also have a role in trying to give assurance to members of the public and it has been the case, I believe, that certain people have been alarmist about our stocks. While there are pressures, I do not believe there has been any reason for alarm and I have been trying to give assurance that we have constant streams of P.P.E. coming in. While there are pressures, there are worldwide pressures, but we are working hard to ensure that all care workers in the Island and front line workers such as police, ambulance, prison, all those who need P.P.E., that work stream is now co-ordinated centrally and we have people working on placing orders, following up orders, verifying that what we are ordering is the quality that we want, of the standard that we want and projecting forward, thinking of what we will need at the height of this curve. So we have had in just this last week 32 pallets of P.P.E., I understand, which includes 32,000 gowns, in excess of 900,000 gloves, 7,000 aprons, 2,700 sanitisers. We are expecting next week hazmat suits. All this is going on. All of this is coming in step by step and will support the Island's need for P.P.E. Ventilators: as I have said before, we have 5 that we are expecting reasonably imminently, we have another 14 that are on order. I have answered these sort of questions before that the Deputy has put to me just now.

**4.11.1 Deputy M.R. Higgins:**

We all are aware of the world problems in trying to acquire this equipment, with every nation virtually chasing it, but I think the Minister ... will he give an undertaking that he will keep us regularly appraised of deliveries so that we know what the current position is? He needs to understand that people who are perhaps scaremongering, it is because of lack of knowledge, and if the Minister keeps the public informed ...

[15:30]

We all know he is doing his best and officers are doing their best, but it would more reassuring doing that. Will he give that undertaking, please?

**The Deputy of St. Ouen:**

I think it is rather an ask of any Minister to monitor what is going on at the docks, when the ferry comes in and exactly what we get in. This is a constant stream that is being brought in, so I do not wish to say that we are getting so many gloves, so many aprons, so many of this, that or the other. There is no point because this is a normal supply chain in exceptional circumstances that it is set up. What I think we can do, because it is about giving reassurance and I understand why the Deputy is asking, that there are daily updates on the website, so we can at least once a week perhaps - and I will enquire about this - set out what our position is on P.P.E. So I hope that might satisfy the Deputy.

**Deputy M.R. Higgins:**

Yes, it will. Thank you.

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

Does the Chief Minister think we need a field hospital?

**Senator J.A.N. Le Fondré:**

As Members will be aware, the Comptroller and Auditor General has set some recommendations around governance on particular decisions and when they are announced, so what I am intending to do is update Members on that particular issue imminently, but I am unable to do so right at this moment.

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

The Chief Minister has been giving similar answers for the last fortnight, almost even 3 weeks. Can I press him for a date when he will make a decision?

**Senator J.A.N. Le Fondré:**

As I said, there will be an update very imminently.

#### **4.13 Deputy M. Tadier:**

Sorry, you caught me slightly unaware. The question is to the Minister for Health and Social Services, so it is about residential care homes and what reassurance can the Minister give us and those members of the public who have loved ones in residential homes after the news that some homes seem to be getting infected that steps will be taken to maximise protection of these most vulnerable residents?

**The Deputy of St. Ouen:**

The reassurance I would want to give is that residents in our care homes across the Island are receiving the very best of care from dedicated workers who are placing themselves at risk very often in a situation that is worrying to them and their families. Those care homes are regulated, as we have discussed already this morning. They remain regulated, so the care is of a standard that this Assembly has chosen. I am confident that the Deputy is clearly alluding to cases of COVID-19 in care homes, but those patients will be receiving the best of care. Patients who have not contracted COVID-19 will be shielded and protected; they will have stocks of P.P.E. adequate for their situation; they will have a G.P. allocated to them who will be looking after those patients. This has been well-planned. We have the means and we are operating in a way that provides the best of care for those patients.

#### **4.13.1 Deputy M. Tadier:**

I echo the Minister's words, that we cannot give enough praise to the staff and the great job they do, even under normal circumstances, so especially at this time, but I do not want these people to be receiving the best care for COVID-19, because I do not want them to catch it in the first place. Can he reassure that ... these homes are supposed to be on lockdown and many family members and friends have not been able to visit for maybe 5 or 6 weeks, so how is the virus getting in? Specifically, to go back to perhaps a question that was asked previously, are staff prevented from doing shifts in other care homes, where they might go on to spread the illness during this period, and if not, why not?

**The Deputy of St. Ouen:**

I cannot say how the virus is getting in. That would be remarkable if I could. I mean, let us be realistic, those homes have to be staffed. It is the movement of staff that is the issue here, I think, and inadvertently, as we know, the virus is spreading amongst our community and staff would not be an exception to that. We know that because our elderly are the most vulnerable in our community that care homes will be affected. We have also seen that in Guernsey and in the U.K. As to staff working in 2 locations, I think all care workers are regarded as critical workers so we ask them to carry on their work. If they contract any symptoms then of course they must report that and stop work and then we would carry on contact tracing to see who they have been in touch with. It is a difficult one, I acknowledge, but because our staff are so crucial, we have to keep them operating. Obviously care homes cannot operate without staff. I hope that answers the Deputy's question.

#### **4.14 Senator K.L. Moore:**

Last week in a briefing the Chief Executive described work on the recovery plan as: "We are looking at what the Island will look like, what will be the drivers for the economy in the future. All require careful modelling and some careful thought and planning and that is what we are doing behind the

scenes.” Could the Chief Minister describe, please, his political direction to the Chief Executive and the Chief Economist in order to assist them in delivering that work for him, please? If he could also outline which Member it is who is leading on this work. He said a name earlier, but neither Deputy Perchard or myself could hear him when he answered the Deputy’s question.

**Senator J.A.N. Le Fondré:**

As I outlined, I think hopefully to Deputy Perchard, we are in very early days of this, but there is work taking place and any reporting that is taking place is to myself. There will be a sub-group of Ministers to focus directly on this. It has informally had some briefings, but it is not yet fully formed, but as I keep emphasising, this is very early days. The inputs are coming in from Treasury looking at the future financial position from the Chief Economist. That is around basically the Chief Economist, for example, is looking at the various economic forecasts that are coming from a global perspective as well as the impact of the comments we have had from the F.P.P. (Fiscal Policy Panel) and then essentially assessing the kind of actions we might need to think about for dealing with what is likely to be a recession at the end of this particular crisis.

**4.14.1 Senator K.L. Moore:**

A supplementary. Could the Chief Minister describe what his priorities and opportunities are for the recovery period of our Island?

**Senator J.A.N. Le Fondré:**

Yes. Officers have been directed to develop a recovery plan that delivers the best sustainable well-being for Islanders in the future.

**4.15 Deputy C.S. Alves of St. Helier:**

Following the press release on 2nd April regarding the construction industry, can the Minister advise where we can find the conditions and the criteria that the sites have to comply with to be granted a permit?

**Senator L.J. Farnham:**

I can confirm that the final details of those are being worked up by officers as we speak and I will be making a media announcement later on in the day, which will point to all of the necessary details. The plan is to get those details available before the weekend, but it might be just after if they are not complete, but we are working on it as a priority.

**4.15.1 Deputy C.S. Alves:**

Then can the Minister advise why or how was a permit signed for in advance by the Minister for Infrastructure?

**Senator L.J. Farnham:**

I am sorry, I am not able to respond to that because I am not sure of the details around the permit the Minister was asked to sign, but knowing in relation to the site that it involved, I am content that the permission was necessary. But the full detail you will have to revert to the Minister himself for. Thank you.

**The Bailiff:**

Very well. I now have the Connétable of St. Peter for the Minister for Education, then Deputy Le Hegarat for the Minister for Economic Development. That ends first questions and I will then call on for second questions Deputy Doublet, Deputy Morel and Deputy Gardiner in that order. There are others also listed for second questions, but we will have to see how long the time lasts. Very well, so Connétable of St. Peter, Minister for Education.

**4.16 Connétable R. Vibert of St. Peter:**

A question for the Minister for Education. Following the announcement this week that one of the Island's private nurseries has been forced to close permanently, will the Minister please advise the Assembly what measures are planned to ensure that there will be sufficient nursery places available after the corona crisis has passed? Thank you.

**Senator T.A. Vallois (The Minister for Education):**

Of course we recognise that the childcare industry is absolutely essential to the community here. We are saddened to hear of the news of the closure of Rainbow Tots of course this week. All nurseries, from the beginning of the business support scheme, have been able to access such a scheme. Also, as you will recognise, we have the Nursery Education Fund, which we have paid out for the summer term offering, but of course that is for 3 to 4 year olds and nurseries provide for much further than that, but they are able to access the business support scheme and we are in regular contact through the membership organisation, the Jersey Early Years Association, to support and assist in any way that we can.

**4.16.1 The Connétable of St. Peter:**

Given the importance of these nurseries and in particular their financial arrangements, perhaps in some cases they do not have larger reserves and yet are probably still paying rent, *et cetera*, on top of wages with no fee income, would the Minister consider an additional finance package in order to ensure and prevent further closures?

**Senator T.A. Vallois:**

Of course we recognise that there is a particular issue, not just with regards to private nurseries, but we also have private schools as well. My team, my officers, are working diligently to put together and look at some of the nuances with regards to certain funding models and identifying the possibility of further support. I should have something in the next week or so to determine what further assistance we can provide.

**The Connétable of St. Peter:**

Thank you very much.

**4.17 Deputy M.R. Le Hegarat:**

Yes, this is for the Minister for Economic Development, Tourism, Sport and Culture. It is a follow-on from Deputy Ash's question earlier in relation to supply lines. What reassurance can the Minister give residents that there are continuing supplies of food to the Island, as on numerous occasions both myself and neighbours have seen significant empty shelves, particularly of essential items such as pasta, rice and cereals? What reassurance can he give us that those lines are still continuing?

**Senator L.J. Farnham:**

We saw some unprecedented levels of shopping prior to the Stay at Home Order. This caused significant supply problems in relation to the logistics, not the actual source of supply, but the fact that the shops just simply could not keep some of those products on the shelf before they were purchased by Islanders, many of whom were stocking up for the forthcoming situation.

[15:45]

Since the lockdown there has been a significant drop in the numbers and volume of shopping which has allowed for the supermarkets and the supply chain to catch up.

**4.17.1 Deputy M.R. Le Hegarat:**

Accepting what the Minister states in relation to the initial surge of shopping, however, I am talking about only in the last 2 days that the shelves are still empty. Can he advise us when they think we will get back to sort of normal, as in having the shelves with food on them?

**Senator L.J. Farnham:**

I thank the Deputy. I will take advice from officers on that question. We are talking almost daily on food supply issues, so I will get exact confirmation just to ensure that there are no problems arising that I do not know about currently with staple foods at manufacturing level. I am pretty sure there are not, but I will come back to the Deputy separately on that, if I may.

**The Bailiff:**

There are 5 minutes left of questions. There has been one notification of a first time question from Deputy Labey. I will call on him next, then I will call on Deputy Doublet and if there is time after that we will carry on.

**4.18 Deputy R. Labey:**

My question is to the Minister for Health and Social Services. Confusion seems to reign with regard to the care homes and P.P.E. Last week the Minister told the care homes: “We have known about C-19 since December. You should have made provision.” Now we hear the biggest risk to transmission or contagion of care home residents comes from staff. Staff who have been complaining they are not adequately equipped with protective gear. What is the policy now? Have we U-turned and are we supplying them with the appropriate P.P.E.?

**The Deputy of St. Ouen:**

Staff are being supplied with appropriate P.P.E. to their environments. In an environment of a care home which does not have any suspected cases of COVID, their P.P.E. will be the normal provision. Where there is a suspected case of COVID, their P.P.E. is enhanced. This is in accordance with the Medical Officer of Health guidelines, which follows Public Health England guidelines also.

**4.18.1 Deputy R. Labey:**

If I could have a quick supplementary. The Minister says transparency is his byword and I accept that, although a very evasive answer was given to Gary Burgess [Journalist] yesterday. Are staff in the theatres and in the hospital going to be equipped now with gowns, P.P.E. that meets around the back, that covers them completely in this new shipment?

**The Deputy of St. Ouen:**

First of all, I do not recall speaking to Gary Burgess yesterday. That may have been within the Department, but it was not myself. As I said before, we owe a duty of care to our staff as well as to our patients. They will get the P.P.E. that is required for the job they are doing. Some work will require complete gowns which surround them; some will require gowns which tie up around the back. Exactly what should be worn when is a matter for the operational staff, their line managers, acting under guidance of the Medical Officer for Health.

**4.19 Deputy L.M.C. Doublet:**

Could the Minister for Economic Development, Tourism, Sport and Culture please confirm that self-employed persons who have been on parental leave for the calculation period, that for those individuals a different quarter should be used when they were working normally? Can he confirm that staff will be made aware of this so that this information will be going to people when they are making enquiries, please?

**Senator L.J. Farnham:**

I cannot confirm that, but I will ask the Minister for Social Security to work with her officers and confirm that. I am sure there will be an understanding as to problems like that and they will be swiftly and properly resolved.

**Deputy L.M.C. Doublet:**

Am I able to ask the same question to the Minister for Social Security?

**The Bailiff:**

No, I am sorry, Deputy, and in fact that has taken us up to now the time when time for asking questions has come to an end, I am afraid. We have had the full hour and therefore question time for Ministers without notice is concluded.

**The Bailiff:**

The Minister for Economic Development, Tourism, Sport and Culture was to have read a statement and answer questions on it but has indicated he does not wish to do so at this time. Did you want to explain that to Members?

**Senator L.J. Farnham:**

If I can seek the indulgence of Members, due to some very pressing business I have to attend to immediately with Senator Gorst and meetings, I would like to withdraw the statement and instead send it to Members by email together with the guidance and to let Members know that myself and officers will be available now and over the weekend, if necessary, to take any questions on the issue.

**The Bailiff:**

Thank you, Minister. That concludes Public Business. I invite the Chair of P.P.C. to propose the arrangement for future public business. Sorry, did somebody wish to raise a point?

**Senator K.L. Moore:**

Yes. I did want to pull up the Minister for Economic Development, Tourism, Sport and Culture on removing that opportunity for Members to ask questions about his statement publicly. Many of us would have refrained from asking him questions about it knowing that the statement and an opportunity to question him in public was going to be following next.

**The Bailiff:**

That is as may be, but it is a matter for the Minister whether he makes a statement. It is open to him. He asked for the indulgence of Members, but that is a politeness and he is entitled to withdraw a statement at any time immediately before it is made. He does not have to make it as a matter of Standing Orders, therefore that concludes Public Business. I invite the Chair of P.P.C. to propose the arrangements for future meetings.

## **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

### **5. Deputy R. Labey (Chair, Privileges and Procedures Committee):**

The Propositions down for debate on 21st April now include P.41, following its deferral from today's meeting, so P.41 plus the previously advertised or published P.14 and P.19. That is how things stand for the next scheduled meeting on 21st April. I should just mention that I have been in consultation with Members of the Assembly who are not in the Executive and who it seems overwhelmingly would appreciate the opportunity to question Ministers in this type of forum, questions without notice to any or all Ministers, and I have also been in consultation with the Chief Minister about this and pencilled in a week today in the morning for that session. Now, as happened this week, things changed, because a proper meeting of the States was called for, was requisitioned and it might happen ... if the Chief Minister is listening, he might have some more information. That potentially could happen again. Other than that, I would circulate information on that questions without notice session only, potentially proposed for today week. I will email Members about that in due course. With that, I propose Public Business.

**The Bailiff:**

If Members would indicate if they are content to proceed on the basis of Public Business for the future sitting as indicated by the ...

**5.1 Deputy M. Tadier:**

I missed part of what Deputy Labey said, I am afraid, because I had to mute and switch my phone off, I had a call, but it would be helpful that if we do have this question time that the Chairman is proposing that it could also include questions with notice, so I do not know if that is in order to raise that at the moment, but it seems helpful. There is a different dynamic to questions with notice because it allows other Members to ...

**The Bailiff:**

Deputy, I think that is a matter you can quite legitimately raise outside of the Assembly directly with the Chair of P.P.C. As he said, he will be keeping Members informed and accordingly the future business is as proposed by the Chairman and at the moment more than half the Members have indicated consent, I believe. There is no real opportunity to ... is it to ask about future business, Senator? Senator Ferguson, who wishes to ask a question. Senator Ferguson, you have asked to ask a question. Is it about future business?

**5.2 Senator S.C. Ferguson:**

It is a procedural matter, Sir. If somebody else in my household has a phone that goes off, am I expected to pay their fine?

**The Bailiff:**

Yes. It is twice as much if we find out, Senator, because it shows a lack of control. Very well. Deputy Tadier, you have already asked a question in connection with business on 21st April. Most Members have indicated their desire to deal with the matter as proposed by the Member, so would ...

**5.2 Deputy M. Tadier:**

It is a different matter. Sorry to be a pain. I note that I am one of the Members who has a Proposition, a personal Proposition, for that day as well as, I think, the Deputy of Grouville and so just to clarify, we are agreeing now that those should be taken on the 21st? Because I do not want, in particular, Ministers coming to me and asking me at the last minute to move that when it seems that the Assembly is content for that to be taken.

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

I withdrew mine, Monty. Sorry, Deputy Tadier.

**Deputy M. Tadier:**

Sorry, Deputy of Grouville. If that is the case I am happy for Members to ...

**The Bailiff:**

Deputy, if it is on the Order Paper for the 21st, then if the Chair of P.P.C. has not suggested it should be moved - and he has not - then it will go on that Order Paper unless you choose to move it yourself.

**Deputy R. Labey:**

If I can assist, Sir.

**The Bailiff:**

Yes, by all means.

**Deputy R. Labey:**

Part of the reason for scheduling a question session - and I take on board Deputy Tadier's point about questions with notice in that session - part of the reason for that is because by 21st April, we are climbing the predicted curve. Things could be difficult and grim and we are approaching the zenith or the nadir, whichever way you look at it, of the disease, so I am not prescribing anything too much now because I think in the coming days a picture will become clearer. It might be that Deputy Tadier feels that at that specific time he could postpone his Proposition to a more appropriate time, as has Deputy Labey of Grouville already. Just one more thing to say, that Deputy Labey of Grouville has also suggested that she is happy to waive her 15 minutes of questions as Minister for International Development if we want to use that time more productively on the virus, on the epidemic.

**The Bailiff:**

That is very helpful, thank you, Chair.

**5.2.1 Deputy M. Tadier:**

Can I just come back? I do not want to belabour the point, but it is just to say that I do not want any Ministers coming back a day or 2 before saying they have not had time to prepare for what is a very straightforward matter to do with buses. I do not want it to dominate because we have clearly got much more serious issues to debate, but similarly, it is something that can be dealt with very quickly. So if Ministers do have an issue with it, they need to be saying that now. I have already made contact with LibertyBus to ask for a meeting so that we can discuss this, just so Members know, and I am obviously available if any Member wants to speak about the pros and cons of that Proposition.

**The Bailiff:**

Thank you, Deputy. You have clarified the position. Who is asking to speak?

**Senator J.A.N. Le Fondré:**

Senator Le Fondré:

**The Bailiff:**

Yes, Chief Minister. Is it on Deputy Tadier's point?

**Senator J.A.N. Le Fondré:**

Yes, Sir.

**The Bailiff:**

Yes, please, then.

**5.2.2 Senator J.A.N. Le Fondré:**

Yes, I have not gone back to Deputy Tadier. We did have a conversation and he was going to review the situation. I am very grateful to the Deputy of Grouville, who did withdraw her Proposition with a view that we would be debating it in September. I make the point that when I first approached backbenchers, and I think everybody has either moved or is reviewing their position, it was back ... I am going to say a month ago. That was when we started to clear the decks and at that point there was no apparent need for urgency. Since then we have tested over 1,000 people, we have got 170 positive tests and 3 people have died.

[16:00]

What I cannot do is predict where we will be on 21st April, as Deputy Russell Labey has alluded to. It is very much always a matter for the backbenchers in question, but my suggestion might be that members of the public might prefer us to be focusing on matters to do with the coronavirus crisis rather than what might be regarded as business as usual. That is very much a matter for the Deputy. I am happy to discuss it with him and obviously it is a matter for the Assembly, but what I cannot

predict at the moment, the results of the curve look better than we had hoped. As I have made the point, it is very early days. We will only get a flavour of where we are going in the next couple of weeks as to what the impact will have been on the decisions we have taken within the last week. So I think that is all I can say. If the Deputy was minded to move it further into the year, for me that would be a positive suggestion, but that is very much a matter for the Deputy and I am happy to talk it through with him offline.

**The Bailiff:**

Thank you, Chief Minister. I have 2 individuals who have indicated on chat their desire to say something. I have Deputy Martin, you indicate you have an issue. Perhaps not. Deputy of Grouville, you have indicated that you would like to speak.

**5.3 The Deputy of Grouville:**

Yes. It was just about the questions without notice. As indicated by Deputy Labey, I was wanting to get some form of confirmation. I mean, I am happy to do questions without notice, but I find that the questions to any Minister at this particular time as we go through this crisis work better, so I would like an indication from Members which they would prefer. Also the other point, Deputy Labey is saying today week we are meeting. Does he mean that or does he mean the 21st?

**Deputy R. Labey:**

To clarify that point, it is potentially backbenchers, non-Executive Members, would like an opportunity for a question time in the week following this one, so that would be the Thursday before Good Friday and I forget the date, but the 21st April sitting is the week after that.

**The Bailiff:**

Very well. Can we therefore assume that Members are content to take business as set out by the Chair of P.P.C.? Very well. A sufficient number of Members have indicated agreement to that and accordingly that will be the order of business and the Assembly stands adjourned until 21st April subject to any other meetings that might be requisitioned and agreed. Thank you all very much indeed.

**ADJOURNMENT**

[16:03]