

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 18th JULY 2023

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[9:32]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

The Deputy Bailiff:

1. Welcome to delegation from Mykolaiv

Members will know that St. Helier is twinned with the Ukrainian city of Mykolaiv, and I would like Members to give a warm welcome to a delegation from Mykolaiv in the Chamber this morning.
[Approbation]

PUBLIC BUSINESS

2. La Collette Waste Management Site – Development Plan (P.17/2023) - as amended (P.17/2023 Amd.(2))

The Deputy Bailiff:

We now move to the Consolidated Order Paper. There is nothing under J or K, so we move on to Public Business. The first matter is La Collette Waste Management Site - Development Plan, P.17, lodged by the Minister for Infrastructure. The main respondent is the Chair of the Environmental, Housing and Infrastructure Scrutiny Panel. There are currently 2 amendments lodged; one by the Connétable of St. Helier and one by the Minister. In order to establish whether or not the Minister's proposition can be read as amended; Connétable, are you pursuing your amendment?

Connétable A.S. Crowcroft of St. Helier:

On the basis that the Minister is going in his opening speech to make a number of reassurances to the Parish in respect of the speed with which the site will be made accessible to walkers and cyclists and the level of consultation and involvement he intends to make with the Parish of St. Helier, I am prepared to withdraw my amendment. But I reserve the right to speak and vote against the proposition.

The Deputy Bailiff:

Thank you, Connétable. First, Minister, do you wish your proposition to be amended as amended by your own amendment?

Deputy T. Binet of St. Saviour:

Yes, please, Sir.

The Deputy Bailiff:

Are Members content for that to occur? Thank you very much. I invite the Greffier to read the proposition as amended by the amendment of the Minister.

The Greffier of the States:

The States are asked to decide whether they are of opinion – (a) to support the short/medium term plan for the continuation of the management and storage of hazardous waste and inert waste at the La Collette Waste Management site, to include: (i) a combined waste management approach for hazardous waste and inert soils under a “La Collette Waste Management Site – Development Plan”, as detailed in drawing 22023-101; (ii) the formation of the “East Headland” and “South Headland” by deposition of hazardous waste in cells to a maximum height, including capping, restoration soils, and landscaping, of no more than 4.5 metres above the current maximum height of the East Headland; (iii) the formation of the South Headland and West Headland by deposition of inert waste to a maximum height, including capping, restoration soils, and landscaping, of no more than 4.5 metres above the current maximum height of the east headland; (iv) the landscaping and restoration of the

East Headland and South Headland and West Headland; (v) the creation of a publicly accessible coastal walk and cycle path, with appropriate public amenities around the perimeter of the site once landscaping and restoration is complete, and developed in consideration of the safety zone limitations; and (b) to request that prior to the next review of the Island Plan, the Minister for Infrastructure and the Minister for the Environment develop a long-term strategy for inert and hazardous waste management, to include: (i) changes to policy and supplementary planning guidance based on the waste hierarchy and with a strict focus on waste minimisation; and (ii) identification of future sites for inert and hazardous waste management.

2.1 Deputy T. Binet:

I am very conscious that it is a very busy week for the Assembly this week so I shall endeavour to be as succinct as I can. That said, it is still a reasonably long and slightly tedious speech. I ask people to bear with me. I am sure Members will be aware of the recent history of and the saga surrounding the hazardous and inert waste areas of La Collette. Nonetheless I think it would probably be helpful to remind Members of some of the longer running history of the site. The La Collette reclamation site phase 2, was approved in October 1993 and in January 1995 approval was obtained to fill the reclamation site with inert waste up to a level at the top of the breakwater. Further approval in September 1995 enabled filling the reclamation site with incinerator bottom ash and hazardous waste up to a height of the top of the breakwater, and this was increased again in 1996 to allow landscaping to create the north mound to 10 metres above the breakwater. In July 2000, the La Collette Development Framework was approved by the States Assembly, which contained 2 key components: (1) an area of reclaimed land to be used for super-filling followed by landscaping, and (2) the storage of aggregate material. This reinforces the point that La Collette was designed and built for the purposes of waste management for Jersey and that super-filling was intended expressly. That is our starting point. La Collette has been and is currently doing exactly what it was intended and designed to do. The Bridging Island Plan has continued to support this approach noting that this is in the best interests of the Island and that extensions to existing waste management facilities are favoured over entirely new facilities on new sites. In the context of this proposition, these 2 points are of great importance. Moving to more recent events, it is generally accepted that La Collette has continued to fill faster than originally predicted, and this is also recognised in the Bridging Island Plan. Because of this, and as mentioned, a planning application was submitted in 2016 to enable continued super-filling of the hazardous waste area. This was refused recently, posing an immediate problem to the Island and its essential management of hazardous waste. We have taken on board the feedback from this refusal and have spent time developing a more holistic solution for waste management at La Collette, which also considers inert waste and stockpiling.

[9:45]

As a consequence, the proposition in basic terms, aims to deliver the following: essential waste management facilities for the Island, a restored and landscaped headland, and an area for public space. It also looks to extend the life of La Collette by proposing work with the Minister for the Environment to develop and implement practical measures in minimising waste and to consider options for future sites for the disposal of residual waste. Obviously, Members are at liberty to make whatever they wish of this proposition, but I feel I have a responsibility to point out a number of other things; some glaringly obvious and others perhaps less so. Firstly, much of the material that we have to deal with relates to a time when we, as an Island, were far less concerned about our environment. Indeed, one can go as far to say a time when we were possibly careless. If there is any good news in this proposition, it probably rests solely on the fact that in recent times our practices have changed and, as a consequence, the volume of hazardous waste will reduce significantly for future generations. In the case of asbestos, the problem of continued supply will eventually disappear. Second, the historic waste and its ongoing production is not of the Infrastructure Department's making. However much we might be concerned about the location of its storage, and

the method of its ongoing management, we should not have and do not deserve the luxury of simply expressing outrage, then standing back as if someone else is to blame. This waste belongs to each and every one of us and, as such, we have to share responsibility for its disposal. Yes, the task has been delegated to the department, but we all need to be realistic about the options open to them. They are not superhuman and they do not have any magic solutions available to them. It may and probably will be the case that future sites will be needed but this will take many years and significant funding will be required to identify, plan and deliver them. I should also remind Members that if we did not use La Collette for waste management we could not use it for a great deal else. That is simply because of the location of the fuel farm. That presence gives rise to specific safety zones that have been developed through extensive national and local analysis and these dictate considerable limitations. In any event, the amended proposition seeks to ensure that the Island continues to have an effective waste operation and to deliver benefit to the community through increased public access to amenity space. The original refusal cited insufficient details regarding restoration, landscaping and community benefit and, accordingly, the revised application due for submission early in September will include a comprehensive restoration plan developed in conjunction with planning and environmental professionals. This will create to seek a one-mile-long coastal walk and cycle path around the perimeter of the site with other suitable public amenities. The landscaping of the headlands is essential to provide the best public experience and to ensure the waste operation is screened as much as possible by the creation of a continuous headland screen along the outer limits. For those who recently made speculative comparisons between the waste mound in Noirmont Point, I am pleased to say that the newly proposed height of the format, which sits some 31.5 metres lower than the latter. In response to comments from the previous unsuccessful application, this newly proposed headland height has been reduced from an increase of 10 metres on the original application to a mere 4.5 metres, and that is a reduction of some 55 per cent. Based on the normal intake of volumes, this would still give us more than 3 years of additional storage at the current rate of infill, albeit this is not a great length of time to develop and embed longer-term solutions. However, if we can minimise the waste through behavioural change and better practice then this 3 years could be significantly extended, hopefully to as much as 10. Also important to note is the fact that through the development of supplementary planning guidance, and the future inclusion of the solid waste team as statutory consultees for the planning applications, and that was at the wise suggestion of Deputy Alex Curtis, we will have plenty of expert opinion on the approach to future developments, including the rationale, the waste targets and assurance that the waste is minimised through design and site waste management plans. Thus, subject to the success of the proposition, it will soon be incumbent upon designers and developers to minimise waste as far as is reasonably practicable. Measures to enforce this requirement are already contained within our existing regulatory and policy framework. In terms of the hazardous waste, this may also involve some onsite treatment or remediation depending on the nature of the contamination. In terms of inert waste, this could involve ensuring through design that excavated materials can be reused directly where onsite filling is required. Before concluding, it should be mentioned that however unfortunate it must be for the Parish of St. Helier to be the recipient of the Island's hazardous waste, it is the only Parish that has the ability to manage this level of waste safely in a specifically created area, suitably distanced from housing and the waterways that feed the Island's reservoirs. With this in mind, it does give rise to the question: where else would States Members want the Island's waste to go? In conclusion, having visited the Granite Products quarry, the Ronez Quarry and the large quarry at Sandpit pond at St. Ouen's, and having considered the various opportunities and constraints of the inert waste and recycling pond, it is my firm opinion and, perhaps more importantly, that of the professional waste team that this proposition is our only sensible option for the foreseeable future. It is based on reducing the height and visual impact previously proposed and minimising the waste intake by designing out existing areas of hazardous waste, where possible, and ensuring careful onsite selection and separation where it is not. Failure to support it would leave the Planning Panel with an unreasonable level of responsibility that would, in all probability, result in an imminent planning decision that

would cause all construction and development work in the Island to cease and put the incinerator option at serious risk in the event that our ability to export incinerator bottom ash were to change. It could also mean no new hospital, no new schools and no new homes. In these troubled times, to describe that as unwise would be a huge understatement. Finally, and for the avoidance of doubt, I would like to repeat my commitment for the I. and E. Department (Infrastructure and Environment) to consult with the Parish of St. Helier on all future planning applications for this site and thank the Constable again for allowing the proposition to be debated in its simplest form. I would also extend my thanks to Deputy Alex Curtis for the same reason and for the constructive dialogue that we have had over recent days. In withdrawing his amendment to my amendment, we have agreed that henceforth every effort should be made to use all waste areas, particularly the hazardous waste facility, as sparingly as possible using every measure available to us to ensure the most intelligent approach is taken to extending the life of this now precious waste facility. We also have to balance the importance of its careful use with the need to ensure that our all-important construction industry continues to have the level of work that is required to remain successful and able to deliver the various critical developments that the Island needs. This will undoubtedly involve consultation and engagement with all concerned, particularly in relation to the treatment of the hazardous waste known to be in existence at the waterfront development. Especially in this regard, I look forward to working closely with Deputy Curtis, Constable Crowcroft and others to deliver the best possible outcome for the Island. I certainly hope that I have said sufficient for the Constable to be happy. If not, I am quite happy to make further statements to that effect because I think we are both agreed on the path we would like to take. I leave it in the hands of the Assembly and hope that all Members can find it in themselves to approve this proposition.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**]

2.1.1 The Connétable of St. Helier:

St. Helier was never going to be as attractive from the sea as St. Peter Port is, though perhaps it was in the time of St. Helier himself when the marauding pirates from the 6th century came towards our seafront and saw the lonely hermit on his rock signalling danger to the people who lived inland. Even in the period of the Victorians, the combined brains of people living in Jersey was able to create a very attractive town and harbour and seafront. Anyone who has seen the paintings by the great landscape and seascape painters of the 18th and 19th centuries will know how attractive St. Helier looked. Yet the 20th century and the 21st have really destroyed the appearance of St. Helier from the sea. The reclamation site, of course, plays its part in that. My view is that it will probably only get worse. I am grateful that the Minister has decided to reduce the height of the super-filling but it is still going to be an eyesore. Perhaps it will not be as much of an eyesore as the incinerator, which Members may remember I and of course the residents of St. Helier campaigned vigorously against, when indeed a Deputy of St. Helier suggested it should be taken from its planned site in Bellozanne Valley and placed in the most prominent position possible on the foreshore. But that is history. What we are faced with now is a proposal to carry on placing toxic waste/asbestos on the lowest lying part of the Island at a time when we know there are rising sea levels and climate change, and nobody knows how severe that is going to be. Also, of course, inert waste on the foreshore. I have to say, to go back to the 19th century, as we know the town church was once on the beach practically, just separated from the sand by a wall. The Victorians were better at it than we are, I think. They reclaimed land from the sea in order to build quite a lot of St. Helier and then of course built a beautiful granite seawall all the way around St. Aubin's Bay around to the harbours. I am not against reclamation. I am not against putting the inert waste that our building industry is creating in the manner that the Minister has said. I believe that in a small Island like Jersey, where land is a precious resource, we have no option but to consider reclamation in the future. To revert to what I was saying about rising sea levels, further land reclamation on the south coast of Jersey is probably the only way

we are going to stop the water coming over and flooding the people living on the south coast of Jersey; not only in St. Helier but also of course in St. Clement and St. Brelade and so on. To make my position clear, I do believe that reclamation and the placing of inert waste, good clean rubble in other words, can help us. It can help us by extending the Island if it is managed properly, and its ecological and environmental effects are understood and mitigated. But so it is the toxic waste that gives me pause. It is the toxic waste, the asbestos, that makes me reluctant to put my name to this proposition because we do not know what the future holds and I do not like the idea of leaving for the next generation to clear up. However well we are told these cells will be that are supposed to protect them, I do not like the idea of leaving that inert waste for future generations. I wonder what they will think when they look back at this Assembly and say had they really exhausted all the possibilities of dealing with the toxic waste. It is not the big volume. The big volume is the inert waste and I think to bring them together in the way the Minister has done is not helpful. I support his strategy for inert waste, I do not support the placing of toxic waste on the foreshore of St. Helier. I do not believe that it would have been impossible to find somewhere else to put these cells, these wholly watertight cells, rather than in the Parish of St. Helier.

2.1.2 Connétable P.B. Le Sueur of Trinity:

I thought I should speak early in the debate as the main reason that this is before us today has already been alluded to by the Minister, is the Planning Committee's recent refusal of the 2016 retrospective planning application. I hope the Minister will agree with me that it was unreasonable to expect a small number of members of the Planning Committee to regularise and simply rubberstamp the unauthorised activities that have taken place on this site for several years. Had this been a commercial private individual other than Government it would have not been allowed to continue as it has done unabated. That said, I entirely agree that today the Minister and the department find themselves between a rock and a hard place when it comes to the safe disposal of both toxic and inert waste. There must be an immediate and positive step to extend the life of this facility by minimising the amount of waste generally and the amount of toxic waste that the site is required to accommodate. The report highlights that the source of 92 per cent of the hazardous waste deposited so far has been produced by Government or Government arm's length organisations, a proportion of which comes from the essential infrastructure work, like the sewage treatment works, but a much greater proportion has been dug out of the original West of Albert reclamation site and shipped to La Collette. I am uncomfortable at the prospect of having to continue to extract, treat and dispose of leachate from the hazardous waste bits but I am encouraged, having met and spoken with officers and their assurances that the processes are tightly controlled and monitored and the outputs remain within tolerance. This site at La Collette is the only home for our inert and hazardous waste at the moment and it is the base for numerous other waste management activities and recycling processes.

[10:00]

It provides a temporary home to stockpile the vast quantities of household domestic rubbish that we collect and produce daily, at times when the incinerators are out of action or shut down for maintenance ...

The Deputy Bailiff:

Sorry, Connétable. Do you mind turning off your phone off please? [Aside]

The Connétable of Trinity:

So, when the incinerator is out of action or shut down for maintenance this vast quantity of material has to be stored somewhere temporarily. Storage and treatment and disposal or recycling of the seaweed and sand raked up and removed from our beaches, dewatering and dealing with the unmentionable sludge that is created when the Cabin is used, and many other related uses that nobody would want just over the fence or in their backyard. The quicker we fill up with solid waste, the

sooner we will drive these other processes to locations that will be equally unacceptable. There has been significant investment by the contractor who undertakes the aggregate recycling process. However, we cannot continue to produce stockpiles of materials that the construction industry seem reluctant to take. I do not understand why it is. Are they priced competitively or is there an educational piece that needs to be done with the construction industry professionals to maximise the use of recycled material? Or is it more convenient just to continue extracting virgin rock and sand? This heads up why we must extend the useful life of this facility for as long as possible through much tighter control. I am encouraged that this proposition suggests there will be an overall reduction in the height of the mounds from that originally applied for and the commitment to providing a properly designed and landscaped vision with public access restored as soon as possible. I am further encouraged that the solid waste team will be, in future, a statutory consultee to the planning process when hazardous waste and non-recyclable waste volumes are proposed to be generated by planning applications. I would ask the Minister when he sums up just to clarify for me that there is no intention of depositing hazardous waste in cells other than in the east headland. As I read paragraph (a)(ii), it talks about forming the east and south headlands by depositing hazardous waste in cells, but when I go on to read paragraph (a)(iii), it suggests forming the south headland and west headland by the deposit of inert waste. For paragraph (b), I would much prefer commitment that a long-term strategy will be produced no later than the end of 2025 rather than relying on whenever the next review of the Island Plan takes place. While I do not personally like the idea of the La Collette mountain, we have to be realistic. We are where we are today. It is an unenviable situation that results from a lack of action by several previous Governments. Therefore, I hope Members will support the Minister today otherwise we risk bringing our construction industry to its knees, which will have a lasting and devastating impact on our Island economy.

2.1.3 Deputy A. Curtis of St. Clement:

As Members may know, I have taken great interest in the development at La Collette for a number of years. For those who were preparing to speak on my amendment, I apologise and I can confirm that I am not withdrawing that lightly. Following extensive conversations, I am placing a great deal of trust in the Minister to uphold the principles that we have discussed that were in my amendment. As an Islander, I watched with dismay at the formation of the eastern La Collette mound. Like many Islanders, I failed to grasp how such a monstrous and frankly ugly creation could be thrust upon us without planning permission. You can imagine my further dismay when I learnt what was contributing to the rapid rise in height of this mound. One may have sympathy for 62,900 tonnes of incinerator waste and ash that formed this mound in the past 10 years but why was our coastline, our view from St. Clement to Noirmont, being given up for the dumping of 145,300 tonnes of contaminated soils to development by our arm's length organisations in their activity of digging up basements at our previously reclaimed waterfront. This absurdity felt like a Government interested in short-term profit over long-term sustainability. It was one factor that made me feel at least that previous Governments of the day were sacrificing our Island for quick wins. It is fair to say that I expect most of us wish this mound, or as we creatively mark it as a headland now, was never formed, and indeed that it went away. But we know that that cannot be done. Unfortunately, we must accept the mistakes that led to this. What we can do however is learn from these and start for a change making long-term sustainable decisions based on what Jersey wants to be and needs to provide. Jersey needs a solution for hazardous waste storage. Whether we like it or not we produce hazardous waste in the form of development and in the form of incineration. The problem is we have no site on Island that can store this waste without creating environmental and social risks. The only viable site we have is La Collette and only so if we approve extra capacity on the eastern mound. This is not new information. The solid waste strategy of 2005 recognised this, highlighting that it was important to find a new site for hazardous and inert waste. We are now at 2023 and that site I think is no closer to coming online. This means that for the foreseeable future, any capacity that we approve on the eastern mound is all we have. This is where my amendment had come in. I am

incredibly concerned that we will repeat the mistakes of our past, pursuing quick profit over long-term cost. Many of us I am sure have heard motivational speeches that go along the lines of if you had £4,212 to spend and that was all you had how would you spend it? In this case the analogy would be that there are 4,212 weeks in an average Jersey person's life. You can choose however you like to fill those but once you have used them they are gone. There is no chance at a do over, at a second chance or start from zero. You can guess where I am going with this. If you had roughly 150,000 cubic metres of hazardous waste storage how would you spend them? Would you gorge on them now? Would you enjoy a feast of forgetting the consequences of the long term? Would you ration them carefully, spreading the value of that capacity as far and wide as possible? Or would you be as bold or, dare I say, naive as to assume you will get your second chance in your do-over. Me, I would play the long game. I would prioritise my cubic metres sparingly. I would think about essential services, construction of a healthcare facility, the liquid waste network that may create waste. I would think about a small development that has no impact. But I would think about the future capacity and the rainy days that will come. What causes me concern is when I read P.17 I see a table predicting the future sources of contaminated waste. We see asbestos creating 730 tonnes per annum, animal and clinical incineration producing 190 tonnes per annum, and a proposed south-west waterfront development producing 360,000 tonnes. That is 391 years of asbestos and incineration waste. We have already heard that there will be a point where there is no asbestos left to collect and dispose of. I will cover detail on that later. But this sounds to me the analogy of using up the life supply of weeks on an all-inclusive holiday to the Maldives. No matter how enjoyable your holiday will be it is not worth trading the rest of your life for it. My amendment also addressed the southern and western mounds and whether they should be temporary. This would have bound the hands of a future Assembly, and perhaps with good reason. Firstly, land at La Collette is valuable. Whether this be for light industrial, future uses or continued waste processing, as we have heard from the Connétable of Trinity, a flat level site is more valuable than a mound, and indeed the solid waste strategy recognises. Secondly, I believe, as many others do, that the proposed southern and western mounds will be an eyesore. Disconnected from each other the 3 mounds will appear as artificial islands above the rock armour. The Minister has committed to a range of things and he has highlighted that at all available costs we will see those mounds go down. It is in all of our interests, given those 2 reasons. So I am reassured that there is a great reason that will be coming up for those mounds to go down. We have a shoreline management plan and that will require reclamation. The Minister's engineers have told me that the most advantageous thing to do is have a readily supply of inert material to make sure construction is as short and minimises disruption to residents around reclamation areas as possible. So I look to the Minister and tell him we have a solution for how to remove those mounds. It will be when we reclaim for the shoreline management plan. So I see us agreeing in P.17 to a few principles; that we need to create capacity for hazardous waste. I think that is fair. We need to create some capacity in the short term for inert waste and we recognise that inert waste can be reused and moved. Finally, we need to better manage and minimise the sources of this waste in a joined-up manner to extend the life of this facility as long as possible. It is fair to say, if we mean what we say in this Assembly the task really is to accept waste minimisation at the heart of all decisions. Things on this Island will have to change. If we are to spend our 150,000 cubic metres wisely that will require buy-in from the planning authority and it will require teeth in the solid waste department to act as a statutory consultee in objecting to applications that spend our capacity poorly. Should both parties play their part and they take the severity - real severity - of this situation seriously, then that is why I feel I could remove my amendment. I was reassured in some of my readings on the topic when I read the solid waste department's proof of evidence submitted to the as yet undetermined south-west waterfront development. I say this not taking aim at a single application but highlighting the absolute critical risk to the Island's hazardous waste supply and storage if this or similar applications involving largely contaminated land are developed without bona fide waste minimisation at their heart. In it the Government engineer recognises that the application fails to minimise waste, and crucially hazardous waste. A couple of quotes from his assessment may aid the

Assembly: “The application for the south-west St. Helier development has stated the generation of a very large volume of waste in each stage of the construction phase plan, of which, a large proportion during excavation works is considered to be contaminated to varying degrees.” He goes on to say: “Although remediation and stabilisation of waste has been identified the applicant or its specialists have not yet provided detail of techniques and their effectiveness on the contaminants identified from localised ground investigation results from adjacent development projects such as Horizon, I.F.C. (International Finance Centre) and Castle Quay.” This is saying we have never seen the applicant minimise waste before, why should we believe it now? Finally: “The development of single and double basements within an area of known contamination whereby it has been identified that the highest likelihood is that ...” that waste is contaminated and will need to be disposed of at La Collette ... “has been identified as a major and permanent effect on an expected long-term, finite island resource, for the controlled containment of contaminated wastes.” If that does not sound like a department standing up for an absolute critical future I do not know what is. On the topic of waste minimisation the engineer went on to say: “It is felt that no consideration was given to reducing the impact of the design of basement parking further by such ideas” and provides recommendations including: “The applicant is requested to evaluate the option of alternate designs to reduce further or eliminate basements to greatly reduce the arisings of contaminated wastes.” So you can imagine my relief in reading that the engineers are speaking up; they are saying that we have this resource. It will only work if the planning authority and Infrastructure speak and make sure that waste minimisation is not a tick-box exercise but one that informs the onward design and use of any site in particular. The argument of financial viability cannot supersede our 150,000 cubic metres. The cost of failing to live within our means will exceed any short-term win. Any site, after all, is worth developing based on the value given its constraints it inherently has. In essence, when developing, live within your means, live within your policy and do not over-value your site and its potential yield based on something that it cannot provide. It is worth noting, if Members think this is one-sided, if I quote from the S.o.J.D.C.’s (States of Jersey Development Company) waste adviser, Watermen, in their response. They say: “It is not clear to me how new capacity for contaminated soils and similar will be found on Jersey should La Collette remain unavailable.” Let us be honest, we need to be assuming that any approved capacity today for La Collette for hazardous waste is not a short-term plan, it is not a medium-term plan, it is and has to be a long-term plan. As Members, who will have seen my email last night, will recall I am committed to securing the long-term function of hazardous waste storage. In discussions with the Minister yesterday, he suggested that should something go awry and these principles are not followed the States can always rule with a further proposition. Indeed, he said he would support that position. To the Ministers with control of this, that of Infrastructure and Environment, I urge them to recognise these principles and to not underestimate the as yet intangible cost of living beyond our means, running out of hazardous waste storage, and the onward impact that would have to the Island and its economy. Members, I ask you to think that if you have 150,000 cubic metres of hazardous waste storage to last our lifetimes, how will you be using them?

Connétable D.W. Mezbourian of St. Lawrence:

Sir, can you just clarify: 2 members of the Planning Committee have spoken already, can you confirm that those members of the committee are able to vote on this please without being conflicted?

[10:15]

The Deputy Bailiff:

Thank you for raising that, Connétable. It is really a matter for the Members concerned whether they decide to vote. Obviously, they do not want to be seen to tie their hands in relation to any future applications. I do not know what future applications there might be in relation to this site, so it is a matter for them.

2.1.4 Deputy S.G. Luce of Grouville and St. Martin:

Another member of the Planning Committee stands to address the Assembly. In my case, the Vice-Chairman. So I am quite a bit to do with the reason that the debate is in front of us here today. But many of us are equally responsible. I look round the Chamber at people who have been here 3, 6, 10 years, like myself, and we are all equally responsible for this happening. We have all allowed the mound at La Collette to continue to grow and we have all been too happy to turn a blind eye because it was convenient to do so. As it is quite often said, and we are where we are and what is to be done. We cannot go back, certainly not when it comes to contaminated waste. The powers of convention it is very unlikely to allow us to export things. In any case, the engineered cells are safe and we do know where they are, which is greatly different from what we have done and the previous disasters that we are now seeing West of Albert. The Minister has been quite right in everything he has said, pretty much, and I just take a small exception to 2 things that I think we could do better. The first one is design. Those of us who sit on the Planning Committee and those who forward applications know that drawings come in front of the committee drawn by architects, and they are designed by architects, but when I look at the drawings submitted by this application it is quite clear that they are designed by engineers. I urge the Minister to maybe do a slightly more imaginative and artistic attempt at trying to make these mounds look like parts of Jersey and not look like something that has come straight out of an engineering workshop. The other issue I take is with inert waste, and I know other Members have already spoken about inert waste. But I take a slightly different view because to say there is no other option than to take inert waste to La Collette is not where I am coming from. I know La Gigoulande Quarry, Granite Products, has been passed to put inert waste in and we do also have a large sandpit at St. Ouen's, which is now empty, which is a void area crying out for some inert waste that cannot contaminate water or land. I am very disappointed at the size very quickly achieved of this inert waste heap on the south and west of La Collette that is coming out of the ground so quickly. Anybody who has had the ability to arrive by sea on a ferry or on a boat recently will be amazed how fast that is happening. The Minister is quite right, we do need to carry on using the site in the short and medium term but for myself I am hugely disappointed that we have ended up using La Collette in this way. We have had some comparisons with the West of Albert and the 2 reclamation sites could not, in my view, be more different. West of Albert, every square foot is hugely valuable and defended by developers. La Collette is literally a waste ground, and it is a huge waste that we have spent these vast amounts of money allowing this reclamation land to be used in the way it has. Where is light industry? Where are the other bad neighbours that desperately need sites to run their businesses from? There are vast areas at La Collette which we could use so much better and that, to me, has been a mistake of the past. I am also disappointed but encouraged by this proposition in regard to public access. Members may remember for some time, especially when I was Minister back in 2014, I fought hard to open up that public access, so that at least there is some return on investment from the people who live on this Island and that has got to happen, and I thank the Constable of St. Helier for bringing this forward and the Minister for accepting the suggestions. The other thing I would say is that landscaping could be so much more imaginative. There is a lot of space down there. It is not impossible to find large areas with very deep topsoil to be placed and semi-mature trees to be brought in and bushes to be placed so that it looks so much better. It has been mentioned by Deputy Curtis most recently, developing policy to minimise all waste. We have got to force engineers to specify recycled aggregates. Currently, we are digging out Jersey at Granite Products and at Ronez and we are turning it into concrete, while we take other concrete and take it down to La Collette for recycling. It is absolutely wrong in my mind that recycled aggregates cannot be used in a more widespread manner by engineers when they specify foundations and other parts of buildings. Members need to be under no illusion that these proposals which are in front of us today are not small items. They are only going to get bigger, and I know the Minister is making great play of the fact that he has reduced the proposed increase in height from 10 down to 4.5 metres, but Members need to be under no illusion. That additional 4.5 metres height on what is currently there is still a substantial increase in what we are going to see. I have said I am not happy about the inert

waste super-fill and the south and west headlands in particular were not separated in this proposition, and that is very cleverly done, where we do not get the option to choose one or the other. In my view this inert material could and should be going somewhere else on the Island. We can go on and on about this. We need to use this area to best effect. There are no more excuses. We have got to get on with the public access. We have got to try to address the poor design, because there is no design gone into these mounds at all. The other thing we must stop doing is we must just stop carrying on as we are and closing our eyes. We have to support this proposition because despite what we are told by others there really is no common-sense alternative. There is no realistic option for doing something differently. We do have to, and I will finish with this, and I will just follow up on what Deputy Curtis has said, this proposal at La Collette is not sustainable. In fact, it has a finite life. It cannot go on for ever and we have got to use common sense and a very realistic approach to come up with a policy to decide what we are going to do in the future. For here, today, we must say yes to this.

2.1.5 Deputy R.J. Ward of St. Helier Central:

It is very good to follow those people involved in the Planning Committee, because we get a bit of insight into some of the issues that arose from the previous planning application. The Constable of Trinity raised a very good point regarding paragraphs 2 and 3 and I think there is a slight inconsistency in the proposition, and I would like the Minister to address that, because that is a very important point. Where will this hazardous waste end up? I would also say, and perhaps it is just my approach to these things, but whenever we say it is entirely safe, I do not think there is a single scientist, engineer, anywhere who would say that anything is entirely safe. We had this when we dumped nuclear waste in the North Sea in containers and we are not entirely sure what is going to happen to it over the long term, so we have to be very aware of that. That is something in the back of my mind that concerns me enormously. In terms of a coastal walk, that is a good idea, as long as the area is safe. There are a few things I will mention. To take Deputy Curtis' analogy of the amount of time and how long we live, it does seem to me that perhaps what we are getting to is a little bit of dying young as late as we possibly can, with his proposition, to have everything happening at once and a finite resource. I think that notion of finite is something that we do not do well in this Assembly. Obviously, I would say that is because we never have a consistency in the rule accountability in this Assembly, because it is individuals who come forward and we never have that ongoing accountability for groups who make the choices, but that is another issue, I suppose. In terms of a long-term strategy, what I would like to hear is it does say in the proposition that the Minister for the Environment and the Minister for Infrastructure will develop a long-term strategy, and that is me paraphrasing because I cannot see my own screen. I think that is the content of it. I would like to hear from the Ministers as to how this would happen, because that is a very important point. A long-term strategy in terms of what we are going to do both with inert waste and toxic waste on a finite Island where we seem to be building, particularly in St. Helier, I have got to say, which is taking the brunt of the building again and again, without the overall plans to deal with green space, travel, schools, facilities, youth facilities, regardless of the hard work that some of us as Deputies have done over the last 5 years in trying to get those brought forward. Again, I digress a little. It is prior to the next Island Plan, I think this was alluded to before. How much will happen before that plan in an "uncontrolled way" without a plan to do it? This is time dependent. We were told yesterday that the reason we cannot bring forward the additional policy - it is not called that, but I cannot remember what it is called - for planning regarding the number of homes that are affordable is because there is not officer time to do it. But we have just been told today that there will be officer time ... well, they will need to bring forward the strategy before the next Island Plan review and indeed this is an extremely urgent plan that needs to come forward because we have this finite resource that we have been talking about. I would like to see, for example, there are some opportunities in that strategy. There is no doubt that we are going to have to reclaim land in the bay to stop flooding. Due to sea rise and climate change it is a reality. Look at the world around us at the moment, look in the news. There is, and I do not

think it is an irony, so I do not know what the word is, a concern, that one of the flood areas is where we are about to build the ambulatory part of the new hospital. So, if we do not do something about protecting that from flood risk, we could be heading down a pathway that is really risky for this Island in terms of one of its major resources. That is why this plan is so urgent at the moment. We have to think long term and we have to think what we are going to do with all of these things. There is a contradiction as well. In part (b)(ii), identify more sites for the processing, and then there was a contradiction, I have got to say, in the Minister's opening speech where he said: "The only Parish that can do this is St. Helier." So, we seem to have already identified our own sites, which is St. Helier. Now, that concerns me because we cannot have one or 2 contradictory points within a proposition in the presentation of that proposition, so that does need to be addressed. We are in a difficult position. We are in a difficult position because we have got here with uncontrolled development. I do not know if the word is "pleased" or "relieved" or "interested" to hear the Minister talk about how, in the past, we have had scant regard for our environment. Indeed, this proposition does not deal with the pollution of the past. There were some serious pollution incidents that were talked about by States Members previously, who were utterly ignored and vilified for talking about such things. We are only now standing in this Assembly and saying: "Well, something should have been done about those. We will try and do something now as a last resort, and into the future we will come up with a plan." That concerns me a little. I want to finish by saying that whenever we talk about planning application rules and how we are going to apply them when there are difficult choices to be made, such as you cannot produce excess waste, you have to look very carefully at the materials you are using, you have to deal with asbestos appropriately. We repeatedly get these arguments that developers need to have the opportunity to build effectively in a cost-effective way and you cannot have your cake and eat it when it comes to these things. We are a small Island trying to build so many things, and unless we have regulation that is adhered to and applied by Ministers, by Government, then we will have this situation getting worse and worse and this finite resource will be used very rapidly. There are parts of this proposition that I am very pleased to see, to talk about strategies, to talk about the planning applications and the words are very good that are being spoken by the Minister. The intention is great. I think I have said before, intentions are one thing; the reality is sometimes very different.

[10:30]

That is what we need to be very careful about. Yes, we are having a threat held against us again that the construction industry will collapse if we do not pass this, so it is a very difficult situation to be in. I personally do not like those types of propositions, and we are seeing it all over, that certain markets will collapse if we introduce a simple regulation. We are going to probably hear that again at some time during this sitting and we will hear it over this one, and we have to be extremely careful as to what we accept with those arguments. However, we are in a difficult position, and it is difficult to walk away today without an alternative plan because the reality is we have to do something about this waste. It is interesting that it was mentioned that the headland was redefined as a headland and not a waste dump, similar to the incinerator, as it was called by the previous Minister repeatedly as an energy to waste plant. It is an incinerator that makes a bit of energy inefficiently. That is one of the things that we have to be careful of. This is where the concern is of this Assembly, that we have heard so many things before and we have got ourselves into a really difficult position here, and we seem to have no alternative, but we will have some plans in the future. I really hope that we are not making the wrong decision today, but what we have to do is to look at the plans carefully and we have to prioritise some time to come up with those plans urgently. If that means extra money to have extra officers and extra work being done on that then that needs to be done, because this is an urgent thing for us to do in order to build this waste. I worked in an old building. When they demolished the old La Rocque school and I was working there I can remember the asbestos being removed and thinking that I worked in there for years, and hopefully it was not dislodged. It is not a nice material. It is something that needs to be dealt with very carefully and we have to look extremely carefully at

how we are going to dispose of this and make sure that it is safe for Islanders well into the future. There is an awful lot to think about in this and currently I would say I am 60:40 on this one, but with the reassurances from Ministers about future plans and to address those contradictions we may be able to get somewhere.

2.1.6 Deputy M. Tadier of St. Brelade:

I think it was 15 years ago that there was a new intake, the elections in 2008, one of whom was Deputy Wimberley of St. Mary, one of St. Mary's finest Deputies I think that it has ever had. It is a subjective opinion, of course, but I got on well with the Deputy. He made it one of his first propositions to try to rescind the energy from waste plant, which Deputy Ward has quite rightly said is just a euphemistic way of saying an incinerator. What do we do in Jersey in 2008 when the rest of Europe for decades has been moving to a reduce, reuse, recycle model in practice, not just as a mantra? We go and build a big box down at La Collette to burn our rubbish, so that we can bury the residue in the ground. That is seen as a 21st century solution to that. That was not done in my name, because I voted for the rescindment, and I was perhaps one of just a couple of Members of this current Assembly. Deputy Southern also was there at the time. So, this is not my project, this is not a project that I have any truck with or that I support in any way. It is not the way that we should be doing business. Members who stand up one after the other and say: "Well, it is not an ideal situation, but this is the situation we find ourselves in" that is your problem and that is your decision, but you do not have to automatically follow the line that is being set by the Minister. I look forward to hearing maybe some input from the Minister for the Environment on this because we have heard the Department for Infrastructure solution here. We have not heard what the environmental vision is for now and for the future, which I would like to hear. I want to talk about 3 words initially: legacy, progress and civilisation. Let us think about what these mean, both now and for the future, but do we often talk about the environmental legacy that we are leaving for future generations? If I think back to my own constituency a quarter of a million years ago, I was not there at the time, and I think the constituencies might have been slightly different back then, but we all know about La Cotte and the Neanderthals who were hunting, the cavemen, literally living in the caves and hunting on the plain that was there, men and women, hunter gatherers. They left us a legacy, an evidence, of woolly mammoth, and we can see their tusks in the Jersey Museum, and of woolly rhinos and the flint tools that they created. There was probably a Breton chieftain who left us a gold torc here, which was found by workmen who were digging the foundations of a house in St. Helier in 1889, exactly 100 years after the French Revolution. We know about the Le Catillon hoard, 50 years ago and Le Catillon II, which are iron age coins which were left here in the Island and of course perhaps the most salient one of all is La Hougue Bie which is one of the finest passage graves that we have from the neolithic period at La Hougue Bie from about 4,000 or 3,500 years ago, or even B.C. I think, but certainly it is that ballpark and it is older than Stonehenge, if I recall rightly, and it is covered with a mound. It is called La Hougue because La Hougue is a mound, and La Hougue Bie is probably related to the legend of Hambye, but we are not entirely sure about that. These are all legacies which are left by people coming to Jersey and leaving us nice presents to find in the future, so that when somebody is digging a foundation they say: "Oh, I did not expect to find this nice gold torc there. Let us send that to a museum." What have current Governments been leaving as the legacy, a time capsule if you like, for future generations to find? It is both toxic and inert waste. So, when you get the archaeologists digging around at La Collette they will be like: "Oh, what have we found here?" It is a whole load of inert waste that is still there. It is called the mound. The mound sounds very nice. We should maybe rename it La Hougue, maybe La Hougue Toxique. It sounds very exotic, does it not, although it is probably not toxic waste, I do not want to be pulled up for misleading anyone. It is inert waste. Let us look at what inert waste is. Inert sounds really good, does it not? If it is an inert chemical, it means it does not react, so it is not going to harm you. If we have all sat through our science lessons we probably like inert elements because they are not going to react. They do not cause an explosion, not like manganese or magnesium. I remember having some fun with

some magnesium ribbon in a chemistry class when you set fire to it. You would not want to do that too often. Or with the hydrogen, when you light that and put the glowing splint into it. What is inert waste? Inert waste is basically materials that are unreactive biologically and chemically. This means they are inert, so when we dispose of them, they take an extremely long time to decompose or they do not decompose at all. This is what we are burying into the ground. How does that fit with the mantra of reduce, reuse and recycle? In fact, we are not even recycling properly in Jersey. Recycling is the very last of those 3 in the order of what you should be doing. The first thing is to reduce. Are we reducing our consumption and our output of waste materials? Waste of course does not have to be waste. These are valuable products that for many decades countries have been recognising, and that is why you have reverse exchange machines all over Europe. We used to do it in Jersey. You used to be able to send the bottle back and get your 5 pence or 10 pence, if you took it to the bottom of Les Quennevais or wherever it was that you used to live. So, in terms of progress, what kind of civilisation are we, both our modern civilisation but in Jersey? We like to think we are a modern Island when it comes to finance but, when it comes to the basics, where are we? The reason I raise this is because I am really struggling here whether or not we are being taken down an avenue. I am always sceptical when you are told you do not have a choice. We have to vote for this and we are elected Members and we have got 3 buttons in front of us in French, but effectively we have got 2 buttons, have we not? If we all elected to abstain on a regular basis there is no point in having us in here. Every time you abstain you might as well not be here. If you are sick or you are on a women's conference somewhere around the world, that is just the same as abstaining. I suggest you do not abstain on this one, Members do not abstain. We have effectively got a binary choice and I think we have to use both our values and our logic to come to a conclusion on that. So, I am sceptical about being led down this avenue where I am forced into a decision because we do not have any other options. I have got a lot colleagues and associates outside the Assembly who are in tourism and one thing they have told me, and I do not know if it is still true today, is that they like to typecast the type of visitors they get, not because they like to stereotype them but because they know over a period of time the kind of thing that different visitors are interested in. They say often on the coach tours the British visitors want to know about the rich and famous people who live in the Island, but when the Germans come over, for example, one of the questions that they ask time and time again is: "What do you do with your recycling over here?" because it is inbuilt into them as social democrats in Europe that they are interested in those kinds of things, maybe in the same way as when we go to France the first thing we do is rather than go to a museum or an aquarium we go to the supermarket to see what they have got. Each nationality perhaps has its idiosyncrasies. I think that goes back to the fact that Europeans, for a long time, have got to grips with the fact, I would say even in France, as somebody who is French, I found it remarkable just how switched on the French are now with all their environmental practices, which they maybe were not even 5 or 10 years ago. The problem is, if you go back about 30 years ago, these issues were still being raised. I remember former Senator Stuart Syvret constantly talking about the fact that we were burying our rubbish, we were burying these waste products, whether it was here ... and I remember him talking about the waste under Millennium Park on the Gas Place site. The problem is, and this was being talked about in the 1990s, there was a whole swathe of environmentalists who came into Jersey politics during the mid and early 1990s and, unfortunately, they were often labelled as cranks, and nobody listened to them. Yet here we are maybe 20 years later, and we have got the Minister effectively telling us what they said and saying: "But we are in a difficult position here, so we just have to keep doing what we are doing already because it is too difficult to do anything different." So, my challenge here is that is it too difficult to fundamentally change first of all the basis that creates all of this waste, which I do not think needs to be created in the first place, and secondly, is there another option for how we treat this? It may be difficult, it might be costly, it might need thinking out of the box, but there will be people all around the world who are dealing with these exact same issues and who have got specialisms in these areas, which we simply do not have at the moment. I would like to know more about that before simply rubberstamping a permission, if you like, for business as usual. I see this

proposition as very much business as usual. The last point I would make is again to reiterate my invitation to hear from the Minister for the Environment. I noticed that in his election manifesto the Minister for the Environment said that if elected - he is elected - he would support but it is: "I will support the creation of a separate Minister for the Environment, whose role will be to protect and enhance the environment, championing its importance in Government and to the public." I do raise this issue, because we do not have a separate Minister for the Environment. We have got a Planning and Environment Minister, and the Planning and Environment Minister, whoever that is now or in the future, is going to have an uncomfortable time, especially when the Minister for the Environment should be holding the Minister for Infrastructure, whoever that is, at any one point, in check. They should be both doing that, and it should be up to the Minister for the Environment to say: "I do not think this is the right way forward, or if it is the right way forward we can tolerate it for the moment, because there is a greater vision that we are going to be implementing in the future." So those are my thoughts, and at the moment this proposition is unlikely to get my support.

2.1.7 Deputy M.R. Scott of St. Brelade:

It is always a pleasure to follow Deputy Tadier because he always gives me so much food for thought. I have thought long and hard about this proposition, and one thing that Deputy Tadier mentions is that it is very much being presented that there is no plan B.

[10:45]

First of all, I want to congratulate the Minister for very much suggesting he is not just thinking of the short term and the medium term, but the long term as well. I just wanted to point out to Deputy Rob Ward, who is not in the Chamber at the moment, when he was expressing the concern that the proposition only talks about St. Helier, that the amendment that has been put forward by the Minister and has been accepted by him - well, it is his amendment, what do you expect - that it does suggest that there will be a longer term plan, which will look at site requirements across the Parishes, and I hope that will provide Deputy Luce with some comfort there, because that was something I was mindful of. What do you do with this waste? It is there. You cannot ignore it, or you should not continue ignoring it anyway, and something has to be done in the short term. We cannot ignore that either. None of us in terms of the short term have proposed a plan B. None of us have put forward those amendments. Maybe none of us have the technical ability to do so. I thought that Deputy Tadier's discursion about Neanderthal rubbish was quite interesting too because I will point out that in fact over the years there has been some element of just dealing with toxic issues just by burying underground. I lived in a place in London called Blackheath, which was there apparently because of the plague and the concern that there was anthrax at some point, and they basically buried it, which was great because it meant that you had this great big heath and it never got developed. Even more recently during the Second World War, having mentioned this already, the British experimented with anthrax and made a whole island in Scotland uninhabitable for a few years, although it did get declared anthrax-free in 1990, so in theory it can be inhabited again. Unfortunately this seems to be the way that we have to go before we come up with solutions. Sometimes at this point in history we just have not come up with those solutions. We have not come up with those solutions in terms of nuclear waste. We find that that is being promoted as nice and clean, but at the end of the day we still have got that problem with toxic waste, and we have not come up with solutions. With respect to Deputy Alex Curtis, I point out that one of his roles as Assistant Minister for Economic Development is he is involved in the Technology Accelerator Fund, and I was thinking that that would be one of those interesting problems that maybe one should promote that to solve, because that is a real problem for the Island and I do hope there is a decent, crafted problem statement in that respect as well. I think the Constable of Trinity has made a really good point in terms of the reference to the Island Plan in this proposition, that there will be long-term planning in the next Island Plan, 2025 and beyond. I think I have mentioned in the States Assembly before that it gave me great discomfort when the Minister for the Environment suggested that the Bridging Island Plan could

potentially be a permanent Island Plan, notwithstanding the intention that it would be temporary. I really will urge that that Bridging Island Plan is treated as a Bridging Island Plan, so that issues like this can be addressed before the expiry of 10 years of the adoption of the Bridging Island Plan and the enforcement of the sustainability provisions because, as has also been mentioned, much of the toxic waste that has been created has been the result of building and construction and the methods used there. Are we going to stop housing? Are we going to stop the development of it? This is a problem in the Island too. What we can say is that we do need that housing, we do need that construction, and it needs to be managed carefully, so in the day when it comes to these housing issues, we do need to think these things through. I will be supporting the proposition. I commend the Minister for thinking long term as well as the short term.

2.1.8 Deputy A. Howell of St. John, St. Lawrence and Trinity:

Today we are facing a legacy issue with 92 per cent of the waste, especially hazardous waste, being produced by Government. I am not against inert waste, although I do understand that the Constable of St. Helier may like to have it not all at La Collette, but I do have reservations about hazardous waste. I am very concerned at the prospect that we may think of digging up the waterfront to trundle the very toxic and hazardous waste from that area around to La Collette. We have got a problem. We are going to make a worse problem by putting it there. There may be other means of construction. Perhaps we do not need to dig this toxic waste out. I think if any of us had been in this Assembly we would not have allowed that dumping of refrigerators, batteries, asbestos and all sorts of things, not in a proper bund, at that time. I think we are where we are now, but we should not carry on doing what we have always done, because I think there is a problem, and I would really like to ask the Minister for the Environment if we could all get together and come up with a solution for our waste. As Deputy Curtis has said, I really do not think we should be using up all our capacity. We have to be very mindful that we do need a new hospital, and we have to think how we are going to produce housing that does not build to basement. I would also just like to ask the Attorney General one question. If anybody gets cancer in the future from our hazardous waste who will be responsible? Is it all of us? Is it the Minister for the Environment? I just worry, because it is for our future, it is the generations that are to come. La Collette, La Hougue Bie is great, and La Cotte. We have got some really great things here, but we do have to be mindful of our environment and I do not think we have a proper waste strategy at the moment. I think we should be trying to produce the least amount of waste as we can, and we should be thinking of what we are doing.

Mr. M.H. Temple K.C., H.M. Attorney General:

The Deputy asked me whether there is any legal liability I think on the part of the States Assembly in relation to persons who may contract cancer in the future, I assume as a result of hazardous waste. In terms of legal rights of action in those circumstances it is always best to advise if there is something concrete, a specific claim, that is concrete and is actual. Advising in a vacuum in terms of general rights of action, the right of action is primarily a tortious one. It is a private law claim in the law of tort, and it requires the establishment of a duty of care between the person who is suffering from the cancer and the proposed defendant. Also, the second and third requirements are causation of the harm and loss resulting. In those sorts of cases the duty of care as regards the first element is perhaps more easy to establish, but even so there may be difficulties in establishing a direct duty of care on the part of the States Assembly, because the States Assembly as a legal person would be unlikely to be the target of a claim. It is more likely to be brought against a Minister. In terms of causation, that would be the principal difficulty here because causation of cancer can result from all sorts of causative factors, so it might be extremely difficult to establish that causation of a particular disease is a result of a waste strategy. So, if I were to generalise, I think it would be extremely difficult to establish a private law of action in these sorts of circumstances.

2.1.9 Deputy T.A. Coles of St. Helier South:

I know in some of these circumstances it is not best to start a speech with a joke, however I should point out to Deputy Tadler that the 1990s were 30 years ago, not 20 years ago. Sorry to break that to you. The good thing about debate is that sometimes it raises questions that you had not really thought about asking yourself previously. The question came up about chemical reactivity, and I just had a quick Google, because I just wondered, because asbestos was a wonderful material when it started being used because it did not react with anything. It did not catch fire, it did not break down. So, a quick Google search revealed that asbestos is considered chemically inert. It is a chemically inert substance. So, when you look at the proposition in P.17 and as someone who got pulled up for his use of language in his first amendment in this Assembly, I thought it was important to look at this. The proposition recommends that the west mound is going to be for inert waste. Asbestos is inert, so is this a loophole that is being left? Is it intentional language that it is being left, and that this mound could potentially become another dumping ground for asbestos and other chemically inactive substances? I believe that is something that the Minister has to pick up on, because the use of language and making sure we get the wording right, that this is going to be for recycled building waste that is not deemed hazardous waste, should be clear and obvious within this proposition. I am sure that is what is meant but unfortunately it is the word that has been used. So, we talk about the issue of contaminant waste, and the Minister did make in his speech that he would be speaking to the Minister for the Environment and that they would be coming forward with a long-term solution, because what I am seeing here in front of us is another instance of kicking the can down the road. It is like: "Here is our short to medium-term plan but do not worry, we will have a long-term plan come at the end." If that is true, there is a lot of work that needs to be done. As a member of the Planning Committee that has been mentioned, as we tour around in the bus we hear the anecdotal stories of previous dumping grounds used within Parishes. Each Parish, as far as I am led to believe, used to have its own dumping site, so are these sites known? Is there a list of known buried contaminated soil around the Island and, if not, why not? Is this not something that we should be investigating? Should we be coming up with red zones of contaminated grounds on this Island that the Minister for the Environment should be designating as to not be touched, that we should not be disturbing this waste that is already buried and creating future problems. As Deputy Curtis has pointed out, there is only a finite amount of space that we have to move these materials in. Then we need to look at, as I am sure the Minister is meaning for that west mound of inert waste of recycled building rubble, should we not be delegating projects for this, as Deputy Curtis, and I feel like I am repeating a lot of what Deputy Curtis said, because he made some very good and very valid points, that we should be prepared for our sea defences for environmental impact reasons? Should we earmark the tonnage that may be required for these backfill sites to have produced a product, that this is how much waste we are going to estimate to use, the offset, so that it is not a fixed figure of waste that we have, but we forecast a use of X amount of cubic metres of waste to these sea defences? Should these projects be planned and becoming close to shovel-ready before the 2040 tranche start date? Let us have a plan. Let us have a solution, rather than just short-term: "Well, we are going to hold this here until we find a better solution for it." Should we not be working on the better solution?

[11:00]

We also hear that some of this recycled rubble from these buildings are not satisfactory for engineering purposes, I think is the best way to describe it. Should we not be looking at why these are not good enough for engineering purposes and what can we be doing to make them good enough for engineering purposes? That is something that is not within my knowledge base, and I would like a solution for that, because that is stuff we should be considering. It is a difficult one because we have tied our hands previously by the use of these fantastic chemicals and materials that came out earlier than the 1960s and 1970s and we are dealing with the consequences of that. I believe that the cells are being engineered to be as safe as possible because again, as with so many things in life, we are never given a guarantee of 100 per cent safe because we do not know. There can be something minute that has been overlooked that becomes exacerbated in time. This is why your bleach company

say that they kill 99.9 per cent of bacteria and not all bacteria, which most tests would show that they did, but there is always the chance that one microbe gets by. I would like clarity from the Minister for the Environment about what this strategy is going to look like with the Minister for Infrastructure. There are comments that are being made by the public about the regulation of the contaminated waste sites that I think is very poignant, in the fact that the Minister for the Environment and the Minister for Infrastructure do sit under the same chief officer, so regulation sits under the same chief officer that is in charge of Infrastructure. I know they are saying that they put a partition, but how independent can it be if the chief officer manages both departments? It is things that we need to keep on track of. I will not go on too much further, but I just wanted to highlight these important points for this, that we need to stop kicking the can down the road, we need to come up with a long-term strategy. We also need to stop destroying buildings that are only 20 years old because they fitted a market then and not a market for the future. I look at the Horizon development that we have just built where every single one-bedroom flat in there is only suitable for a single occupant. Not a single property in that development has been built to house 2 people so at some point someone is going to look at this building and think: "It was not built properly. It was not developed properly" and it might become another building that gets torn down and redeveloped to give more suitable and more adequate accommodation. So we do need proper strategies and these strategies come from planning. I am glad to hear that Infrastructure is going to become a statutory consult to provide the waste management solution and not just give a cursory glance to, and that with proper plans and proper development we could prevent more waste coming forward and manage this properly, so this could be a solution.

2.1.10 Deputy J. Renouf of St. Brelade:

I am going to start by perhaps disappointing Deputy Tadier because I am going to abstain in this debate, perhaps out of an excess of caution that I may prejudice my position should I be called upon to determine an appeal. But I note that the proposition includes quite a lot of detail around what might become a future planning application, and I think it is important that there should be one person within the planning system who is not conflicted. So that is I hope an explanation why I will abstain. But I think I can make some comments that will hopefully assist Members, maybe. The first point I wanted to make is about regulation and the separation of regulation and the ability of regulation within Government to regulate other parts of Government. I would say I am exceptionally committed to that principle and to the independence of that regulatory function, and I am also exceptionally committed to the idea that Government activities should be regulated in the same way as private sector activities are regulated. I do not believe it is good enough to say that, for example, because we cannot see any other solution, we will just allow unregulated activity to carry on. I know what goes on. At the BBC I was very familiar with the position sometimes taken that good people felt that good things were being done and, okay, it might not have been quite ideal in terms of principles, rules and whatever, but nevertheless good people were doing good things. Good people doing good things is not a sufficient justification to avoid regulatory intervention. So I welcome the fact that we have a Minister for Infrastructure who has grabbed this problem by the horns and is attempting to tackle it. That regulatory function however does remain separate, and it remains important, and I want to reassure Members that I am absolutely committed to that principle of independent regulation that will regulate activities by Government in the same way as it will the private sector. I do want to make a few other points that just have arisen from debate points made in the debate. It is worth pointing out one person was talking about the fly ash being a waste product. Fly ash in my understanding, and the Minister for Infrastructure may be able to confirm this, but the fly ash is recycled. It is sent to Britain where it is turned into a product, so, yes, incineration is not an ideal solution, but it is not the case that the fly ash is simply added to the dump, as it was in the past. It is interesting in that sense that the points that Deputy Tadier made about Neanderthals and the material that we now dig up as treasure, if you like, from the neolithic period and so on. It was interesting that what was waste to the Neanderthals is of value to us, and there is also truth in the fact that what

has been waste in the past should now be seen in many cases as a resource. I think that is one of the things that is most important about the work that will go on when we talk about the strategies and policies going forward. When it comes to recycling and the policy intent and the policy framework and the policy ambition going forward, I would just make a point first about the environment in general and attitudes to the environment. It is true, as speakers have said, that in the past there were warnings about the cost of using the environment as a free dump. There were warnings about using the reclamation site to dump fly ash, which is now contaminated waste, and we are now in the absurd situation of having to consider digging up and dumping material that was dumped already and moving it half a mile or so to another dumping site. People often talk about environmentalism in the past as some kind of whacky fringe thing, something that we cannot afford. The problem, if you take that attitude, is that we end up where we are now, having to pay twice to do something that had we acted intelligently at the time we would only have had to do once. I would say to Members bear that in mind when environmental measures come before this Assembly, bear that in mind when we are asked to consider short-term cost and long-term costs that will go forward for future generations. That environmental cost is not a cost in the long term, and we need to think much more like that. I would say that when we look at where we go forward from here, we should see the opportunity. We should see an opportunity to reset the way we treat our waste materials, and we should see the circular economy and our ambitions to reuse materials and keep reusing them as an opportunity for us. They are an opportunity for us to reduce long-term liabilities, to make the most of what we have on a small Island. It is an opportunity for us to do something that works not just for us but for our children and grandchildren. That is what I will be carrying into discussions about future policy in this area. Yes, as another speaker said, we should be thinking about how we reuse buildings rather than instinctively thinking that the best way to deal with this issue is to have a clear site with a blank canvas. I went to a talk by the head of R.I.B.A. (Royal Institute of British Architects) that was organised by the Association of Jersey Architects recently, who made this point very powerfully. The embodied carbon and the materials within buildings are to be valued. The instinctive and automatic reaction should not be to tear a building down. It should be to think: "What can we do with this building?" and he gave many examples of imaginative reuse of buildings, sometimes very dramatic changes to the building, but nevertheless reuse of them. On a small Island with limited places to get rid of things we need to be thinking about that. So I would say that I will have failed in this role if we have not made significant progress in developing that reuse, that recycling within our economy. It is vitally important. I would also second what the Constable of St. Helier said about aesthetics. Aesthetics matter. They are the thing that gives us an environment of which we are proud. They raise the spirits. When we look at redevelopment of sites, whether it is La Collette or whether it is the waterfront or whatever, we should have aesthetics in our mind. We should be creating beauty in this Island. That is another opportunity that sits in front of us. Members have raised the question about the interaction with the Island Plan. I would say that the proposition calls for the Minister for Infrastructure and the Minister for the Environment to work together to develop policies in this area. I would say that for those who worry that it is too long until the next Island Plan and we will not be able to make progress, there is already considerable room within the existing Island Plan to make progress in this area. Policy WER1, waste minimisation, and I will read it out because I think it just tells you the significant work that can be done already: "To minimise the waste arising from demolition and construction activity, and to recycle, reuse and recover as much as possible of the generated waste materials in accordance with the waste hierarchy, development involving the demolition of substantial structures or with the potential to generate significant quantities of waste material through construction activity (such as the development of 5 homes or 200 square metres of floor space), will only be supported where a satisfactory site waste management plan has been provided. This must include details of opportunities that have been taken to maximise on-site management of waste. Upon the commencement of the development, all waste transactions must be clearly recorded in the site waste management plan and be available for inspection." That is already within the Island Plan. Now, I think the key question that Members will legitimately ask is to what extent are we making that policy

bite? I would say listening to this Assembly I take great encouragement from feeling that I will have support in ensuring that that policy is enforced and will be taken forward. I would ask Members to think about that when we do bring forward these things and when we get complaints, as we will, from people who say we are putting barriers in the way of development, or that it is unreasonable or excessive when we try to pursue these policies. There is, of course, a balance to be struck and it is right, as the Minister for Infrastructure has pointed out, to say that we are in a particular place now and we cannot pretend that we are not in that place. We are. But as we go forward, yes, we do need to follow these policies and we do need to think about how construction can adapt to these policies. Last autumn one of the first things I did as Minister for the Environment was to hold a sustainable construction summit. I would say that there is tremendous positivity and energy within the industry to try to solve these issues. They understand too that we live on an Island of limited resources and that lots of material has to be imported, and that if we could source more of that material from inside the Island by recycling then that would be a good thing. I think there is energy there to do that, but of course it could potentially impose additional costs. That will cause tensions, but as I say I take heart from the mood of this Assembly which, to me, suggests that we are at last finally accepting that there are long-term costs that have to be balanced against the short-term costs.

[11:15]

We already have some policies in that area, but I will look forward very much to working with the Minister for Infrastructure to go further, to make sure that we do reduce the amount of material that goes into those sites, because we can all see that it is in our best interests to do so. We have to do that. It is a limited site. As Deputy Curtis has said, we do not want to spend it all in one go, or in a very short time period. So those comments I hope are of some help. Somebody asked about what the vision would be. A vision for me is to show how we can do green and do development and do them both well. That is what I would like to see. That is a future that will work for business and for the environment. We have to square that circle. We have to. A final point about contamination. I know that Members are legitimately worried about the potential of contamination and indeed there were questions about this in connection with heavy metals yesterday. I spoke to officers yesterday in connection with this and I can give the following information in connection with heavy metals in seawater, which was a question that was asked yesterday. We do test limpets and seaweed intertidally at La Corbière, St. Aubin's Fort, Elizabeth Castle, Havre des Pas and Gorey. Additionally, we test slipper limpets offshore from the seabed on the outside of St. Aubin's Bay, Horn Rock and Grouville Bay and the Écréhous. The location, scheduling and species used within the testing methodology is designed to monitor levels of heavy metals in proximity to La Collette. The samples at La Corbière and Gorey are used as background to the sites either side of the reclamation site. The metals routinely monitored are copper, arsenic, cadmium, chromium, lead and zinc. Occasionally other metals such as mercury will be tested for and other sites such as the Minkies and the Paternosters are also occasionally tested just to make sure we are getting full coverage. Since 1993 samples have been gathered and tested quarterly and the results made available through the Marine Resources Annual Report. A detailed analysis was done in 2009 and a new report is currently being prepared but I can say that the levels of heavy metals are not increasing, most are decreasing or stable. At present there is nothing to suggest that heavy metals are at anything other than background levels, so I hope that gives some comfort that at the moment we are in a good place with regard to heavy metals. Obviously, that is not a guarantee of future security but we are not in a bad position at the moment. So, I hope Members find those comments helpful and I will sit down, having said everything I have to say.

2.1.11 Deputy L.V. Feltham of St. Helier Central:

I was not intending to speak but I wanted to rise on the basis on what we have just heard from the Minister for the Environment and his intention to abstain; I thought it was interesting. I can understand his reasoning for doing that as the Minister responsible for planning but perhaps we need

to hear from the Assistant Minister for the Environment to hear her views, as she does not have that conflict. I would also like to hear about how she is going to be voting because I, like many other Members, are feeling very uncomfortable about the position that we are in now. It is a position not of our own making, and it is also one that I am not entirely sure from the proposition, and I would like to hear some more clarification from Ministers about what the definition of short to medium term is. I would like to know, it says at the moment the minimum term of medium would be 4 years, I do not know now what the maximum term is. I also have no confidence about when we will see the long-term plan coming to us and being proposed to us, so that does make me feel very uncomfortable. A number of us feel like we do have our backs against the wall with this one and that is a highly uncomfortable position to be in, and I really do want to seek some assurances from the Assistant Minister for the Environment about where the environment portfolio sits on this.

2.1.12 Connétable M.K. Jackson of St. Brelade:

We do spend a lot of time in this place talking rubbish, or in more technical terms, solid, hazardous or inert waste. A friend of mine involved in civil engineering told me some years ago that contractors make money moving unwanted waste from pillar to post for indecisive government authorities, so from that I would say to the Minister, let us decide where our waste is to go once and once only. We have experienced waste being dumped on the foreshore of St. Helier, as the Constable said. We have seen waste dumped at St. Ouen in the area of what is now the sand dunes and these areas have, it is fair to say, recovered. We have of course seen World War II waste dumped over cliffs and at sea. The La Collette reclamation site is an inevitable consequence of a successful economy and is something we have to accept. I would counsel care over suggestions of future land reclamation, however, because we have adjacent to it a Ramsar site, which certainly gives heightened protection to that area, so I would suggest that we meddle with those areas at our peril. I can see the ever-changing site from my office at St. Aubin and it is quite surprising to see these changes at a distance, so I would wholeheartedly agree with the Minister for the Environment in that aesthetics are really important. I believe importantly we have much to do on the analysis of waste arisings going into La Collette and how we might deal with it differently. The debacle over the dumping of hazardous waste West of Albert, as we used to call it, was highlighted by the former Senator Stuart Syvret to the chagrin of the Government of the day. But of course he was right and we have been moving it and dealing with those consequences ever since. I heard earlier that we must do better at reutilising recycled aggregate. My understanding is that the reluctance for its use comes from architects and civil engineers who are suggesting that building insurance may be compromised by its use. I would urge Ministers to develop conversations with the industry to overcome this issue and ensure that those recycled aggregates do go into new buildings, even if it is our own States buildings. I am less sympathetic to the construction industry who are causing the problem in conjunction particularly with our Government and our quangos with their grandiose schemes. There is much work to be done by those involved in the construction industry so let us see some serious activity by those directly responsible to minimise the risings going down to La Collette. I do recall during my time as Minister for T.T.S. (Transport and Technical Services) being responsible for the implementation of the early below-ground designed cells for the hazardous waste of the time. It was being discussed then how bottom incinerator ash might be converted to aggregate for building use. I do not believe that subsequently occurred. The hazardous fly ash from the incinerator referred to earlier was due to be exported and I think that did take place. I do not believe it went into cells but I would like perhaps the Minister to confirm if that were to be the case. Of course, we have the difficulty in the exportation of waste of having to contend with international agreements over the exportation of waste to other countries, and I think it is quite right that that is controlled. I do not think we have much choice but to accept the Minister's proposals, and the amended proposals I think help, but I might conclude with a suggestion in the interests of our heritage, and picking up on Deputy Tadier's point, that the east headland might in the future be named La Hogue Binet and that on the west La Hogue Renouf. **[Laughter]** Thank you.

2.1.13 Connétable K.C. Lewis of St. Saviour:

Following on from the Constable of St. Brelade, which is in fact exactly what I did, after the Constable of St. Brelade I became Minister for T.T.S. and later Minister for Infrastructure. It is an interesting thought that we do in fact export, or the Infrastructure does export, the fly ash. Some Members will remember during the occupation I believe there were 20,000 residents left on the Island and with occupying forces probably a total of about 55,000, it was near impossible to feed the entire population at that time; of course, everybody was very grateful for the arrival of the SS Vega. But ever since I can remember there have been great shipments of food coming to the Island and, as a result, most of the trucks go back empty. So it was quite expedient that a lot of the fly ash was put on the trucks and sent to the U.K. (United Kingdom) for reprocessing, also old fridges, old TVs, anything that could be recycled. Instead of the trucks going back empty they are loaded up with all our recyclables and sent back. But I also believe that we are looking for a solution now; in fact, I think we are all - I mean, all, everyone on the Island - responsible for the problem. Everyone that puts rubbish in the bin or uses a washing machine or shower or flushes the loo, we are all part of the problem and we have to find a solution to this. It is a massive problem and we are left with very few choices, that we do recycle what we can. I would like to see greater reuse at La Collette. The people down at La Collette do a fantastic job. One has only to go down over a weekend and see the amount of people that have cleared out sheds and garages and they are recycling everything from metals, glass, wood and everything going into various spots. Perhaps the Minister would inform the Assembly when the recycling centre is going to reopen again because I believe that is still closed. I would like to see that open again. But, as I say, we have a tremendous amount of work to do. We have very, very few choices with what we could do with the refuse at the moment. If I may correct Deputy Ward, I think it was a slip of the tongue, it is an energy from waste plant, not energy to waste, which in fact it does work quite well. The old incinerator as was in Bellozanne, it was in very poor condition and it did need upgrading, so it was decided to put - before I joined the Assembly - it down at La Collette directly next door to the power station so refuse is burnt, steam is generated, that steam turns a turbine generator and that electricity flows straight through to the J.E.C. (Jersey Electric Company), hence, energy from waste. I believe it is between 4 and 7 per cent of the Island's electricity comes from this particular unit. Of course, there is a byproduct which is the fly ash, which is exported, and the bottom ash, which is sieved and the metals are extracted and recycled, but we are left with the bottom ash, that is for sure, which we have to dispose of. I do not see any other alternative at the moment but I think the Minister for Infrastructure has a tough job and I wish him well, and with that I will be supporting this proposition because that is the only thing we can do at the moment.

2.1.14 Deputy G.P. Southern of St. Helier Central:

I will be brief because we have had numerous contributions, some of which have been worthwhile today. I am really faced for the first time this session with the cry: "We are doomed" as they used to say on "Dad's Army". We are doomed. Unless we vote for the proposition before us today we are doomed because what we will have to do, unless we vote for this policy, is to close down building on the Island, full stop. Hospital: out the door. Schools: out the door. All those flats: stop. Is that the reality?

[11:30]

We have talked about the timescale in which we can do things and I think I have got an idea of what the timescale is. Within 3 years we will have a new policy and we will have solved this problem and we will be able to come to the States with full answers. That is not a problem. But, hang on, 3 years is within the life cycle of how long we last in here, so, no doubt, and I am absolutely convinced with this, we can kick the can down the road to make that 4 years. Will that make a difference? Because then we do not have to make a decision, it will be somebody else's decision who are now facing: "We are doomed." It is also, I have heard today, the prospect of a 10-year plan. When we are talking

about is this medium term, is it long term; those 3 years, 4 years, I am suggesting, certainly the Minister said today, might even stretch for 10 years, and the can will be kicked down for 10 years. As I face the possibility of pressing pour or contre today, I am thinking about the previous Deputy of St. Martin's phrase about "this is a vote where you need to hold your nose". I think, at the moment, I am holding my nose and voting for a scenario that says: "We can get by for the moment, let us put a decision off for 3, 4 or 10 years down the road" because that is what effectively we will be doing. We will not be solving anything. We are just saying there is a new plan along the way, there is a new bus along the way, a policy along the way that we can get behind when the time comes but what we are told today is: today is not the time.

The Deputy Bailiff:

If no other Member wishes to speak, then I call upon the Minister to reply.

2.1.15 Deputy T. Binet:

I would like to thank everybody for their contributions. As Deputy Southern suggests, some have been more useful than others, and while he is not here, I would like to thank the Minister for the Environment for his balanced comments. I will not be long in summing up because I know we have a busy few days ahead of us but I think I will start by just picking one of the paragraphs that I thought carefully about before making my speech and it is in relation to hazardous waste and it says: "However much we might be concerned about the location of its storage and the method of its ongoing management, we should not have, and do not deserve, the luxury of simply expressing our rage and standing back as if everyone else is to blame." I have been rather saddened today that a number of Members have chosen to do precisely that. This is a very complicated problem, it has been many, many years in the making, and I think we have all contributed to it in one way and another. Just picking up on one or 2 of the points that were made. I always find Deputy Tadier extremely amusing but I just wonder if he has ever put a bag of rubbish out to be collected by a bin lorry that has found its way to the incinerator for disposal. There we are. I wonder if he recycles everything that he uses and if he is reducing his use of everything. It may be that he has got a composting toilet at home and he might wear a hair shirt at the weekends, I do not quite know. **[Laughter]** But I wonder sometimes when people stand up to speak if they give sufficient thought to their own activities before casually standing back and telling people how very uncomfortable they are. I know some people have expressed that they have been very uncomfortable. Well let me tell you, I am very uncomfortable because I have been here 65 years and I have watched our waterfront be ruined by various people that have sat in this Chamber and, as I say, I have contributed to that myself, as has everybody else in here. I will make a couple of other points because I wanted to explain a little bit about recycling. My understanding is that we manage to recycle 40 per cent of our inert waste and that is twice as much as the U.K. manages. This is probably something that not a lot of people know but with inert waste you cannot use it for structural concrete and there is a ceiling limit therefore on what we can do. What we are working on as a department is trying to find a way of getting every batch of recycled material that we can verified in the hope that that can be used in structural concrete. We would probably be the first people to achieve that but that is what we are trying to do. In closing, I would like to assure everybody that ... we are being told we are kicking the can down the road, it will be 10 years. There is no 10-year plan. What I did say is that I hope the site could last for 10 years. There is a very, very serious approach being taken to this and I am only planning to serve one term and I am going to make every effort to do as much as I can in that term to make as much change as I possibly can. I think on that note I will end this and thank everybody.

The Deputy Bailiff:

Is the *appel* called for? The *appel* has been called for. I invite Members to return to their seats and I invite the Greffier to open the voting. If all Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. I can announce the proposition has been adopted.

POUR: 39		CONTRE: 3		ABSTAIN: 2
Connétable of St. Brelade		Connétable of St. Helier		Connétable of St. Lawrence
Connétable of Trinity		Deputy M. Tadier		Deputy J. Renouf
Connétable of St. Peter		Deputy A. Howell		
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy G..P. Southern				
Deputy C.F. Labey				
Deputy S.G. Luce				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I.J. Gorst				
Deputy L.J Farnham				
Deputy S.Y. Mézec				
Deputy P.M. Bailhache				
Deputy T.A. Coles				
Deputy B.B.S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy M.R. Scott				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				
Deputy K.M. Wilson				
Deputy L.K.F Stephenson				
Deputy M.B. Andrews				

3. Draft E.U. Legislation (Information Accompanying Transfers of Funds) (Amendment) (Jersey) Regulations 202- (P.36/2023)

The Deputy Bailiff:

The next item is the Draft E.U. (European Union) Legislation (Information Accompanying Transfers of Funds) (Amendment) (Jersey) Regulations lodged by the Chief Minister. The main respondent is the Chair of Corporate Services Scrutiny Panel and I ask the Greffier to read the citation.

The Greffier of the States:

Draft E.U. Legislation (Information Accompanying Transfers of Funds) (Amendment) (Jersey) Regulations 202-. The States make these Regulations under Article 2 of the European Union Legislation (Implementation) (Jersey) Law 2014.

The Deputy Bailiff:

Deputy Millar, are you rapporteur for this one? I would like you to propose the proposals.

3.1 Deputy E. Millar of St. John, St. Lawrence and Trinity (Assistant Chief Minister - rapporteur):

Jersey's work at a national level for the forthcoming assessment by MONEYVAL continues at pace with the onsite visit scheduled for September 2023. One important topic for the Financial Action Task Force is the regulation of cryptocurrencies, digital assets in respect of service providers which are referred to in F.A.T.F. (Financial Action Task Force) standards as virtual assets or just V.A.S.P.s (Virtual Asset Service Providers). Virtual assets can be used for illegitimate and criminal purposes and therefore it is important to regulate these activities to prevent and detect crime. V.A.S.P.s were added to schedule 2 to the Proceeds of Crime Law in January this year and are therefore now required to comply with all requirements of the Proceeds of Crime Law and the Money Laundering Order in respect of anti-money laundering and the countering of the financing of terrorism. The F.A.T.F. standards require financial institutions, especially banks, to include accurate payer and payee information for wire transfers of traditional funds and ensure that the information remains with the wire transfer throughout the payment chain, thereby enabling law enforcement agencies to track these transfers and obtain relevant information where required. The F.A.T.F. requirement regarding wire transfer information has been transposed already into Jersey law with the E.U. Legislation (Information Accompanying Transfers of Funds) (Jersey) Regulations 2017, in short, the Wire Transfer Regulations, which applies to payment service providers or those currently limited only to banks. Over 2019 and 2020, F.A.T.F. revised its recommendation 15 to extend requirements regarding wire-transferred information to virtual asset service providers for the cases where they transfer virtual assets as well as to money or value transfer services. Thus, and to continue Jersey's policy of compliance with F.A.T.F. recommendations, I have lodged this proposition which, if adopted, amends the Wire Transfer Regulations. It will align Jersey's A.M.L. (Anti-Money Laundering) and C.F.T. (Countering of the Financing of Terrorism) requirements regarding the transfers of funds with the F.A.T.F. requirements. The proposed draft regulations will, if adopted, bring virtual asset service providers and money or value transfer services into the scope of the Wire Transfer Regulations by including those businesses in the definition of payment service providers. However, it is proposed to exempt payment service providers from the requirements of the Wire Transfer Regulations in respect of a transfer of virtual assets of less than 1,000 euros if the payer and payee are both V.A.S.P.s. This *de minimis* amount is permitted under F.A.T.F. recommendation 16 and is similar to the approach taken in the U.K. It is important to note that this *de minimis* amount only applies to the transfer of information as part of the payment chain and all other A.M.L. and C.F.T. obligations apply as usual. This exemption will not apply, however, if a payment service provider considered a transfer of virtual assets to represent a higher risk of money laundering and if

the payer is a V.A.S.P. but the payee is not or if the payer is not a V.A.S.P. and the payee is irrespective of the amount transferred. Again, this approach mirrors the U.K. approach. The draft regulations have been subject to public consultation and the responses to the consultation were fully supportive of the amendments. Inevitably, there will be certain areas where industry will benefit from additional guidance on certain aspects of the practical implementation of these changes and government will support the Jersey Financial Services Commission with the provision of such guidance where appropriate and where required. These draft regulations, if adopted, form another important building block to achieve better compliance with the F.A.T.F. recommendations ahead of the MONEYVAL assessment and will enable law enforcement agencies to better track any criminal funds if necessary. But this also makes these amendments suitable to ensure that Jersey remains an attractive, well-regulated and forward-looking international finance centre in the area of virtual and crypto assets and I therefore recommend the proposition to the Assembly for adoption.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Those Members in favour of adopting the principles, kindly show. Thank you very much. The principles are adopted. Deputy Scott, does the Economic and International Affairs Scrutiny Panel wish to scrutinise this matter?

Deputy M.R. Scott (Chair, Economic and International Affairs Scrutiny Panel):

We already have and will not be calling it in, thank you.

The Deputy Bailiff:

Thank you very much. Minister, how do you propose the regulations in Second Reading?

Deputy E. Millar:

I would like to take the regulations *en bloc*, please.

The Deputy Bailiff:

Are the regulations seconded. **[Seconded]** Does any Member wish to speak on the regulations? Those Members in favour of adopting the regulations, kindly show. Thank you very much. The regulations are adopted in Second Reading. Minister, do you propose the regulations in Third Reading?

Deputy E. Millar:

Yes, I do. Thank you.

The Deputy Bailiff:

Are the regulations seconded? **[Seconded]** Does any Member wish to speak on the regulations as adopted? Those Members in favour, please kindly show. The *appel* has been called for. Members are invited to return to their seats and the Assembly is considering whether or not to adopt the regulations in Third Reading. I invite the Greffier to open the voting. If all Members have had the opportunity of casting their votes, I ask the Greffier to close the voting.

[11:45]

I can announce that the regulations have been adopted unanimously.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Martin				

Connétable of St. John				
Connétable of St. Clement				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy C.F. Labey				
Deputy M. Tadier				
Deputy S.G. Luce				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I.J. Gorst				
Deputy L.J Farnham				
Deputy S.Y. Mézec				
Deputy P.M. Bailhache				
Deputy T.A. Coles				
Deputy B.B.S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy M.R. Scott				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy A. Howell				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				
Deputy K.M. Wilson				
Deputy L.K.F Stephenson				
Deputy M.B. Andrews				

4. Draft Employment (Amendment No. 13) (Jersey) Law 202- (P.38/2023)

The Deputy Bailiff:

The next item is the Draft Employment (Amendment No. 13) (Jersey) Law, P.38, lodged by the Minister for Social Security. The main respondent is the Chair of the Health and Social Security Scrutiny Panel and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Employment (Amendment No. 13) (Jersey) Law 202-. A law to further amend the Employment (Jersey) Law 2003, and related legislation. The States, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following law.

4.1 Deputy E. Millar (The Minister for Social Security):

For many years the way in which the minimum wage rate and the offset rates for meals and accommodation have been set have differed. The minimum wage rate is currently set by Ministerial Order and the offset rates, which are the amounts that an employer is allowed to deduct where they provide food and accommodation, are set by regulations following the agreement of this Assembly. In its 2022 report on the minimum wage, the Employment Forum recommended that in future both be set by Ministerial Order. I have accepted the Forum's recommendation and this proposition, if agreed to by the Assembly, makes that change. This is a common-sense and hopefully uncontroversial change. The ability to set both rates by Ministerial Order harmonises the process and will give greater flexibility. In terms of legislative oversight any Member of this Assembly will continue to be able to submit a motion to annul a proposed rate or to lodge a proposition to amend a proposed rate so there continues to be effective scrutiny of the process. In making any order, the recommendations of the Employment Forum will continue to play an important part in the process and the determining of those rates. I am also taking this opportunity to make an important amendment in respect of the provisions contained in the Employment Law which prohibit the setting of the wage rates which would treat different people differently in relation to certain criteria. At the moment that prohibition extends only to the protected characteristics of race and gender. The Employment Law was brought in around 10 years before our Discrimination Law was introduced. This proposition, if adopted, will extend that prohibition to all of the protected characteristics now contained in the Discrimination Law. In addition, this amendment to the Employment Law has been drafted in such a way that any future additions to the list of protected characteristics in the Discrimination Law will be caught automatically in the Employment Law and will not require separate legislative amendments. Thank you. I maintain the principles.

The Deputy Bailiff:

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

4.1.1 Deputy G.P. Southern:

I rise to my feet to ask whether there are parts to this proposition because I fundamentally object to the Minister taking decisions by order again. The Assembly can only alter things which are done by Ministerial Order by rescinding what is going on. I think the control of this House is a danger from such actions.

4.1.2 Deputy M. Tadier:

It just follows on from that. So, would the Minister answer that if a new characteristic is added that does not currently exist, that presumably would have to come back to the Assembly because, I am guessing, it is part of a different law? Can she just confirm that?

The Deputy Bailiff:

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

4.1.3 Deputy E. Millar:

Just looking at the proposition very quickly, I think it would be difficult to extract parts of it to discuss separate elements of the proposition. However, if I could respond to Deputy Southern's comment, moving the setting of the offset rates from a regulation-making power of this Assembly to an order-making power does not restrict opportunity for scrutiny and debate by this Assembly. Over the last

13 years of the minimum wage being set by Ministerial Order, Back-Bench propositions to amend the rate have been lodged no fewer than 11 times, mostly, I believe, by Deputy Southern. So the ability to challenge any setting either of the minimum wage and the offset rates will absolutely continue and I would absolutely expect that in future when we have made a decision about offset rates and the minimum wage, that we will of course notify the Scrutiny Panel in advance when making those public. I hope the Assembly will accept that there is no intention to deny Members the ability to challenge the setting of the minimum wage or the offsets by virtue of this proposition. In response to Deputy Tadier, if we were to add a protected characteristic then that would come before this Assembly. I believe it would come as an amendment to the Discrimination Law if we were to add ... I do not want to pluck one out of the air. If we were to add a new characteristic of people having blonde hair are protected, then that would come to the Assembly for debate but then once that characteristic had been adopted into the Discrimination Law, it would automatically flow through into the Employment Law. So, I hope that answers Deputy Tadier's question.

Deputy M. Tadier:

Can I seek clarification on that just as ...

The Deputy Bailiff:

Are you prepared to give clarification?

Deputy E. Millar:

Yes.

Deputy M. Tadier:

Thank you for that first part. If we adopted a new characteristic and amended the Discrimination Law, does it automatically change this law or does the Minister have to make that change by Order?

Deputy E. Millar:

As I understand, we are making the change now because the Employment Law changes to the Discrimination Law of protected characteristics do not automatically flow through into the Employment Law. So, at the moment the Employment Law is behind the Discrimination Law and it only recognises 2 of the protected characteristics, so this is correcting that deficit, if you like. What the amendment does is say that if a change is made to the Discrimination Law, it automatically flows through to the Employment Law so we should not need to make that change again in future.

Deputy G.P. Southern:

Could I have a point of clarification, if I may, from the Minister?

The Deputy Bailiff:

Yes.

Deputy G.P. Southern:

Does that mean as a result of what is happening, the changes that are happening today, the rights become statutory?

Deputy E. Millar:

Yes, I believe they are statutory. As I understand it, what the law does at present is it states that you cannot set different wage rates for different types of people but only if you are discriminating on the grounds of sex and race. So, you could technically at the moment, I believe, set a different wage rate for someone with a different protected characteristic, say, religious belief, so this is harmonising ... sorry, that is not a protected characteristic, that is one of the ones that I have been discussing with Deputy Ferey. Sorry, let me just tell you, I have a list of protected characteristics somewhere in my

notes. Yes, so at the moment the prohibition of setting different wage rates for people only apply where there is race and sex. Our other protected characteristics are: sexual orientation, gender reassignment, pregnancy and maternity, age and disability. So what that means is that from now on, if we adopt this proposition, an employer would not be able to pay someone with a disability less than they pay someone without a disability. In future, if that list of protected characteristics is extended, then it will flow through automatically into law. I do believe it is a positive change.

The Deputy Bailiff:

Thank you, Minister. Is the *appel* called for? Yes, the *appel* has been called for. Members are invited to return to their seats and I ask the Greffier to open the voting. If all Members have had opportunity of casting their votes, then I ask the Greffier to close the voting. I can announce that the principles have been adopted unanimously.

POUR: 42		CONTRE: 0		ABSTAIN: 0
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy G..P. Southern				
Deputy C.F. Labey				
Deputy M. Tadier				
Deputy S.G. Luce				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I.J. Gorst				
Deputy L.J Farnham				
Deputy S.Y. Mézec				
Deputy P.M. Bailhache				
Deputy T.A. Coles				
Deputy B.B.S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy M.R. Scott				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				

Deputy H.L. Jeune			
Deputy M.E. Millar			
Deputy A. Howell			
Deputy T.J.A. Binet			
Deputy M.R. Ferey			
Deputy R.S. Kovacs			
Deputy A.F. Curtis			
Deputy B. Ward			
Deputy K.M. Wilson			
Deputy L.K.F Stephenson			
Deputy M.B. Andrews			

The Deputy Bailiff:

Deputy Rob Ward, does the Health and Social Security Panel wish to scrutinise this matter?

Deputy R.J. Ward (Chair, Health and Social Security Scrutiny Panel):

No. Can I just make one point or should I speak in Regulations?

The Deputy Bailiff:

If it is about the Regulations, then speak in the Regulations.

Deputy R.J. Ward:

There is just one thing I would point out, when something is made by Order by a Minister and the Scrutiny Panel is informed, there is informing a Scrutiny Panel and there is informing a Scrutiny Panel. I think the larger the timespan for a Scrutiny Panel, I think most Chairs and most members of panels would agree, that that is a very important point to be made and it cannot be a token gesture of informing the panel the day before the Ministerial Order is made because scrutiny cannot be made. I just want to raise that point because it is a very important point for the process of scrutiny within this Assembly. But, no, we will not be calling it in.

The Deputy Bailiff:

Minister, how do you wish to propose the Articles in Second Reading?

Deputy E. Millar:

May I propose them *en bloc*?

The Deputy Bailiff:

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on the Articles? Accordingly, I invite Members to kindly show if they are in support of the Articles in Second Reading. Thank you very much. The Articles are adopted. Minister, do you wish to propose the draft law in Third Reading?

Deputy E. Millar:

Yes, I do, thank you.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on the Articles as adopted in Third Reading? All those in favour please kindly show. Thank you very much. The law is adopted in Third Reading.

5. Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 202-(P.40/2023)

The Deputy Bailiff:

We now move to the Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations lodged by the Minister for the Environment. The main respondent is the Chair of the Environment, Housing and Infrastructure Scrutiny Panel and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 202-. The States make these Regulations under Article 5 of the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018.

The Deputy Bailiff:

Now under Standing Order 106 in relation to similar debates, Members have declared an interest as a landlord or as a tenant as required under Article 106(1) that those Members can go on to vote, as this is an interest shared by more than a small number of other people. So, in relation to declarations of interest, it might be appropriate for us to adopt a sort of Mexican wave approach and start from here and go round. I think perhaps if you stand up so the Greffier - put your light on - has no doubt about what the declaration is. Yes, Connétable of St. Clement, I will start with you.

Connétable M.O'D Troy of St. Clement:

My declaration is I am both a landlord and a tenant in equal measure, although I do rent some commercial accommodation.

Deputy A. Curtis:

I can declare I am a landlord in the respective one unit where I live.

The Deputy Bailiff:

Any more declarations over here?

Connétable R.P. Vibert of St. Peter:

Yes, I am a landlord but only for family members, no other third parties, and I am a landlord in the U.K.

Deputy D. Warr of St. Helier South:

Yes, my business owns 3 units of accommodation which we rent.

Deputy T. Binet:

I am a landlord also.

[12:00]

Deputy H. Jeune of St. John, St. Lawrence and Trinity:

Yes, I am a landlord of commercial and also of residential, and also a tenant.

Deputy A. Howell:

I am a landlord of a family member.

Deputy R. Binet of Grouville and St. Martin:

I am a l.

Deputy C.F. Labey of Grouville and St. Martin:

I have a reversionary interest as a landlord.

Deputy M. Tadier:

I have a quarter interest in a house which is currently let but that will change in exactly one month, so I will no longer be a landlord in one month's time but my wife is a landlord.

Deputy I.J. Gorst of St. Mary, St. Ouen and St. Peter:

Yes, I am a landlord.

Deputy S.G. Luce:

I am a landlord to family members. Thank you.

Deputy S.Y. Mézec of St. Helier South:

I am a tenant.

Deputy R.S. Kovacs of St. Saviour:

I am a tenant as well.

Deputy C.D. Curtis of St. Helier Central:

I am currently a tenant.

The Deputy Bailiff:

Any other declarations? Yes, Deputy Wilson.

Deputy K. Wilson of St. Clement:

I am a tenant.

Deputy P.M. Bailhache of St. Clement:

I am a landlord but I am not declaring an interest.

Deputy M.B. Andrews of St. Helier North:

I am a tenant as well.

Deputy M. Tadier:

Can we get clarification on what Deputy Bailhache just said?

The Deputy Bailiff:

I do not think you are entitled to clarification, he has made his declaration.

Deputy M. Tadier:

He said he is not declaring an interest but is the ruling not that every landlord has to declare an interest?

The Deputy Bailiff:

Well he has declared that he is a landlord, so he has declared an interest, so it seems to me.

Connétable D. Johnson of St. Mary:

May I declare I am a potential landlord as well?

The Deputy Bailiff:

Any other declarations we are missing? Connétable of St. Mary, yes?

The Connétable of St. Mary:

Yes, so I aim to be there; I put a message in the chat. Yes, I am a potential landlord in that I have a property which I anticipate shortly will be let. Thank you.

5.1 Deputy J. Renouf (The Minister for the Environment):

I should say I am a tenant as well. Let me talk first about why I am bringing this proposition before this Assembly. To bring new regulations I believe that 3 conditions must be met: there must be proven need, a problem that we are trying to solve, there must be an effective method by which it may be solved, and the method proposed to solve the problem must be proportionate to the problem being addressed. It must not impose an excessive regulatory burden. I believe these regulations meet all 3 conditions and I would like to explain why. Looking at the problem first, I want to be very clear, we have a significant problem in Jersey with unsafe housing conditions. Environmental Health officers received between 125 and 200 complaints, if you look back over the last few years, relating to unsafe housing conditions. So far this year there have been 115 complaints. They include a number of complaints about mould, damp, excessive cold, dangerous electrics and so on. There is good reason to think that there are a lot more cases than those that get reported to us. We know that people are reluctant to come forward, partly because they fear the repercussions but also because, I am afraid to say, many think there is no point. Therefore, we do not only rely on complaints to the department, because we know that not everyone comes to Government when they have a problem, we know from other agencies that there are significant issues with housing quality. The charity Caritas are contacted by around 200 people a year who are desperate for help because of their living conditions. The Citizens Advice Bureau also report that they deal with dozens of cases every year relating to poor-quality housing. I have spoken to both these organisations and they are clear that terrible housing conditions are a frequent issue raised with them. If you still do not believe there is an issue then perhaps listen to the voices of some of our young people. In *Life on the Rock*, a report published by the Children's Commission, we find the story of a girl called Sophie whose situation was described like this: "The house was not to an acceptable standard with at various times mould on the walls, a smashed door, a garden falling apart and a rat infestation which the landlord refused to address and Sophie's parents could not afford to fix." I have myself spoken to a teacher who has experience from home visits of terrible conditions, particularly mould, damp and cold, in the homes of primary school children at her school in town. She found it heartbreaking to see the day-to-day struggles of children trying to do their best in such awful conditions and, I must say, I do too. So to those who say there is not enough evidence of the problem, or that the problem is miniscule, I say no, there is evidence, there is data. I have outlined the evidence here and there is more in the reports that accompany this proposition. There is nothing hidden about the problem of poor-quality housing. Like Nelson holding his telescope to his blind eye, maybe there are those who do not wish to see, but I say to this Assembly, those people living in unsafe housing are not invisible. They are here, they do speak up, they do put the evidence in front of us, it is not hidden. You can choose not to see what is in front of you, you can choose to minimise the problem. You can choose to ignore the problem if you wish. I am not prepared to ignore the evidence. It is important when we consider the impact of these proposals on landlords that we remember the people who these regulations are designed to help. When we talk about unsafe housing conditions, there is sometimes a temptation to belittle the issue, as if there are no real consequences, or as if these conditions are not really about safety and public health, and I think this is wrong. First it is wrong at a simple human level. No one in Jersey should be forced to live in unsafe housing; this is the 21st century, not the 19th. It should shame us all that those conditions still exist but it goes deeper than this. There is a very large body of evidence linking poor housing conditions with poor health. Ever since the link between cholera and sanitation was established in the 1840s we have known that the quality of housing is a key determinant of health and of life outcomes. Let us all remember it is only a few months since a U.K. coroner determined that the death of a child, Awaab Ishak, was caused by black mould that his housing provider had failed to deal with despite multiple complaints. My colleague, the Minister for Health and Social Services, will address some of the health issues in more detail later but let me make a general point.

We all pay for poor health conditions, we all pay for the working days lost to ill health, we all pay for the stunted life chances of our young people, we all pay for the potential that goes unfulfilled. We pay literally in higher health costs and we pay in terms of people not being able to contribute in the way that they might have. We pay in the loss of hope, the despair, the lack of dignity that erodes the ability of people struggling to play a full part in society. Whenever I started a new project at the BBC I used to ask my team: “What is stopping you doing your best work?” and you always hope at that point that no one puts their hand up and says: “You” but to a large extent I saw my job as removing the obstacles that prevent people doing their best work. The same is true here. My aim in bringing these regulations forward is to remove one of the most significant barriers that prevent some of the most disadvantaged and vulnerable people in society from doing their best work and from being the best people they could be. So what is stopping us doing that now? Here we get to the nub of the issue. The problem we have is this, we already have a law that sets minimum standards, the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018, but we do not have adequate means to enforce it. The system relies on tenants to raise issues with us. We have no knowledge of where rented properties are, never mind which ones are in bad condition. We cannot conduct random inspections because we do not know which properties are in bad condition or even which properties are rented. We are blind. Our only avenue is when we are contacted by a tenant who draws our attention to a problem. In the majority of cases, as I have already pointed out, tenants do not wish us to take action. They fear being made homeless, they fear their tenancy not being renewed, they fear getting a reputation as a difficult tenant, so they simply wish us to be aware of the conditions in which they are forced to live. Regularly officers attempt to persuade tenants to take the matter further but in most cases tenants refuse. There is a further problem. Even if someone does bring a complaint forward, means of enforcement is cumbersome, time-consuming and off-putting. Their only means to enforce against the landlord who refuses to make improvements is a criminal prosecution but criminal prosecution is a high bar to cross. To be effective, in most cases it requires a tenant prepared to pursue a complaint to stay the course and to identify themselves publicly, so in many cases these are people living on the margins of our society. In the stressed and difficult world in which they live this is not realistic. Officers also face an exceptionally time-consuming task in building a case that will meet the threshold of criminal prosecution. All the while they build this case, they cannot be working on other enforcement cases. Even when they have completed the case there is always the possibility that the Attorney General will decide a prosecution is not in the public interest. To date there have been no successful prosecutions. In summary, we have a significant problem and it cannot be adequately enforced through existing means. So, what is proposed? The 2018 law says under section 3, part (1) that: “The Minister shall be responsible for introducing measures to ensure minimum standards of health and safety to be met by rented dwellings.” Section 3 says that I have a legal duty to ensure the safety of residential dwellings. A legal duty. It is a duty I take very seriously. In November 2018, my predecessor used his powers under the law to make an order that established minimum standards across 29 categories. They included damp and mould, excessive cold, overcrowding, lack of lighting and electrical hazards, among others. That law and the accompanying order have now been in place for more than 4 years and it is worth reminding ourselves that meeting these standards is a legal requirement. It is not voluntary, failure to do so is a criminal offence. Under section 5, part (1) of the law it goes on to say: “The States may by regulations establish a scheme for the purpose of further ensuring the safety of rented dwellings, and the health and safety of persons occupying such dwellings.” This is what I propose to do because licensing gives us the tools to tackle the 2 big problems we face: lack of knowledge of where rented problem properties are and the inability to enforce compliance effectively. I should just remind Members at this point that we are talking about licensing of private rented dwellings, of rented dwellings, not of landlords. I know it is a convenient alliteration to say landlord licensing. We do not license and do not propose to license landlords and that has an actual practical effect because it means that if a property is licensed under the scheme and sold, the licence remains in place. It is the property that is licensed, you do not need to relicence when a property is sold. So here is how the scheme will work. All dwellings defined as

being under the scope of the 2018 law will require a licence. In applying for a licence, a landlord will effectively be self-certifying that the dwelling meets the minimum standards and is compliant with the law. A licence will last for 2 years and cost £60, in other words, £30 per year. I calculate that that is 0.1 to 0.2 per cent of a typical annual rental. I am advised it is also a tax deductible business expense. Landlords who are already renting will be able to apply for a licence for their rented dwellings without pre-inspection if the application is made before 31st March 2024. This will enable landlords and managing agents to continue business as usual and will therefore not have any negative impact on the availability of rented accommodation. After that, applications may - may - have an inspection. I emphasise “may” because in most instances it is unlikely there will be an inspection. That is because inspections will be done on a risk-assessed basis. If, for example, a property is brand new or recently renovated, we would not expect there to be an inspection. There would be no need and that would be a waste of regulatory resource. So the scheme will deliver 3 key benefits. First, a licensing scheme will allow officers for the first time to have a comprehensive set of data regarding rented dwellings. They can then apply a risk-based approach to inspection, seeking out accommodation that falls below minimum standards, and working with these landlords to bring them into compliance. Secondly, licensing will allow us to tackle the problem of tenants who are reluctant to bring forward complaints.

[12:15]

Officers will have a complete list of rented dwellings and will be conducting a number of random inspections, so a landlord will never know if the reason they are being inspected is because of a complaint or because of a random selection. This will mean the tenants can bring forward complaints without fear of being victimised. Finally, instead of relying on a criminal prosecution under the 2018 law to enforce the law, officers will have at their disposal a flexible enforcement tool. They will be able to impose conditions on a licence so that improvements must be made or else the licence may be withdrawn. I know there are worries about over-zealous enforcement. I would say this, regulation is under new management. Since January last year there has been a new group director of regulation, since last July there has been a new Minister. The approach to enforcement that the department adopts is a 4-phased approach: engage, explain, encourage and enforce. Initially officers will work to try with relevant parties to ensure matters are dealt with in appropriate timescales, safeguarding the health and safety of tenants. Only if there is reluctance on the part of a landlord to comply will the possibility of licence removal come into view. Members were asking yesterday about regulation and whether some areas of regulation were being properly enforced and so on, I think it is fair to say that I receive more complaints from people who are worried that we are not enforcing regulation enough rather than over-zealous regulation. I think some Members here will have written me letters to that effect. We are not running a department of people who jump in feet first and try and enforce regulations in a small-minded or pernickety way. It is a difficult balance to strike but I am absolutely committed to dealing with the problem of unsafe housing. I am not interested in dealing with properties or landlords with properties that are not in that category. It is a complete waste of time to do so. Let me deal, finally, with some objections to licensing. Let me start by saying that while I have heard many objections to this scheme, one particular objection has been striking by its absence. Not one person that I have heard has argued that the scheme will not work. Nobody has argued that the licensing scheme I am proposing will fail to meet its objective, namely to enable more effective action against substandard rental dwellings. It seems to be accepted that licensing will enable the better enforcement of minimum standards. The argument against hinges on proportionality. In the time-honoured phrase this is a sledgehammer to crack a nut. This is not a sledgehammer. I am not in favour of regulation for the sake of it. Some Members may remember that I was notably cautious about estate agent regulation when it was raised a few months ago because, unlike the condition of rented dwellings, there have been very few complaints about estate agents. I am glad to say we reached a good position on that. I am in favour of regulation when there is a clearly identified problem and a proportionate solution and I believe these regulations meet that definition. I have

frequently been told that licensing is an example of excessive red tape or bureaucratic overload. Let us take a look at another occupation for comparison; it is always good to put things into perspective, is it not? What about fishing? Every fishing vessel must have a licence obviously, just as under this scheme every property would need a licence, so fishers also have to deal with this burden but that is just the beginning. Every vessel is required to fill in a log sheet detailing what they have caught, the weight of that, the gears used to catch it, the amount of time they were fishing and the location and that is every single time they go fishing and whether they catch anything or not. If they do not get their log sheets in on time they are liable to have their licence suspended or be fined. That is a regulatory burden, justified, I should add, by the need to manage our fish stocks appropriately. Now let us compare that with licensing of rented dwellings, the bureaucracy and red tape that is so frequently cited as a significant new burden to landlords amounts to one form to fill in every 2 years; one form every 2 years, with a series of dropdown menus to help make it easy to fill in. When it comes to renewal if nothing has changed then in many cases it will simply be a case of reconfirming the existing data fields. I do not deny it is work but really one form every 2 years, an excessive burden? I think not. I think to a significant extent some landlords are fighting a monster that does not exist. I do not accept the argument that this additional bureaucracy imposed on landlords, as highlighted, for example, in the round robin email Members were sent, is going to lead to landlords selling up. It would be absurd to sell up because of a single form every 2 years. I note in passing that the bureaucracy involved in selling a house is considerably greater than the licensing I am proposing. It is also argued that the real cost will be in mission creep; the Government will expand to police the licensing scheme. This is based on a misunderstanding. We do not need to recruit new people to run the licensing scheme. We already have 6 officers dealing with housing standards. They are employed to police or enforce the 2018 law. The problem, as I have already said, is they cannot do their job effectively and efficiently. Armed with the licensing scheme those officers will no longer be hamstrung. I am happy to commit, as I have in meetings with the J.L.A. (Jersey Landlords Association), that I have no intention of seeking more officers to enforce the law; there is no need. We have the people. They just need the tools to do their job efficiently, licensing will give them those tools. I am also prepared to commit here that I will not seek to increase the price of a licence beyond that which would be allowed by inflation. I have heard it said that licensing will negatively impact productivity at a time when we urgently need to increase it. I would turn that argument on its head because this is a very one-sided understanding of what this proposition is all about. Impact on productivity of filling in one form every 2 years is minimal but there will be a productivity gain from those people who will no longer be off sick because of the debilitating effects of cold apartments or because of the sickness caused by living in a home with mould or because of the stress of living in overcrowded homes. People living in decent homes are more productive than people living in unsafe conditions. Children growing up in decent homes achieve more than those growing up in overcrowded damp or inadequately heated homes. Productivity will be increased through this scheme, not reduced. The J.L.A. and several people have written to Members have asked why we have not gone for a register, rather than licensing. This I find a curious argument because, as I have explained to them on several occasions, the regulatory burden, the red tape, is exactly the same for a register as it is for licensing; identical. The same data fields filled in, using the same software at the same cost. If you find the red tape of a register acceptable then you must, by definition, also find the red tape of licensing acceptable. The J.L.A. argue that a register of rented properties would give us the same information as licensing so we would know where all the rental properties are located; this is true but that is all it does. It misses this crucial second part of the equation, the ability to use licences to enforce improvements in a flexible and efficient way. A register is just a list, no more, no less. A licence gives permission to act and that permission can be withdrawn; that is the crucial extra power that is needed and that licensing provides. It is sometimes argued that the real costs of this scheme will be to drive up the cost of housing and that standards are enforced. I utterly reject this argument. The standards that are being enforced are minimum safety standards. They have been in place for 4 years. They are compulsory and all properties should already be meeting them. There

should be no extra costs for landlords because they should already be meeting these standards. But where there are non-compliant properties I do not accept that we should be deterred from bringing them up to standard because it may lead to an increase in rent. No. We should no more accept unsafe housing standards in return for cheaper rent than we would accept lower airline safety standards in return for cheaper airfares. Safety is basic and non-negotiable. Finally, let me address an issue which is not directly relevant to this proposition but has, nevertheless, been raised. It is the idea that because this licensing scheme comes at the same time as other measures, such as tenancy reform and further into the future environmental performance certificates are being proposed and this all adds up to be too much and, therefore, perhaps we should be doing all of this together in one big go, although I can guarantee that were we to try and do that somebody would stand up and say: "Why are you mixing up all these things? They are clearly different and should be dealt with separately." But let me address the fundamental points behind that, the issue of safety in rental dwellings is the bedrock of tenancy. It is the first and fundamental thing we should be guaranteeing. Any other changes that we make sit on top of that. It is not a negotiation. We do not trade off rental safety against tenancy reform or against other aspects. Rental safety is fundamental and basic and I do not believe it should be mixed up. We will vote on licensing today and if it passes then we will get a separate chance to vote on tenancy reform and we will get a separate vote to vote on other things that might affect them. Nothing in what we do decide today of licensing means that we are committed to any course of action in the future on other contractual matters. Those things are still out for consultation, still being discussed with everyone, we have no idea what is going to come forward. It is not appropriate for us to stop this most basic element of housing to be held up while we mix it up with other things which are not directly relevant. In conclusion, we are talking here about helping the less well-off and indeed some of the most vulnerable in our society. I spoke in my election campaign about needing to make Jersey an Island that works for everyone. A similar theme was developed by the Council of Ministers in the common strategic priorities with its goal of making Jersey an Island where everyone can thrive. You cannot thrive if you live in squalid accommodation. You cannot thrive if you live in fear of retribution, should you have the temerity to complain. You cannot thrive when you see your problems ignored or belittled in society. I came into politics to try and make Jersey a better place for everyone who lives here. I accept that licensing will impose a small additional burden on landlords or their agents but it is not a big burden. I repeat, it is one form every 2 years, £60 every 2 years. It may be a bit of a pain, a mild irritant but let us set that against the gains. Remember no one has argued that licensing will not achieve the objective of enabling us to better tackle unsafe housing. Finally, with licensing we get to tackle unsafe housing conditions, finally we treat the problem of squalid housing seriously, finally we give ourselves the tools to enforce the law. We will not solve every housing problem if this proposition is passed, far from it. But in all honesty I say to the Assembly this is one of the easier things we can do. It is not a new tax, it is not even a new law. It is just a way to effectively and efficiently enforce the existing law. This proposition tackles a known problem in an efficient and effective way with a minimum of regulatory footprint. Let us show we care. I move the principles.

The Deputy Bailiff:

Thank you, Minister. Are the principles seconded? [**Seconded**]

5.1.1 Deputy P.M. Bailhache:

The Minister seemed quite emotional as he began to move the principles of these regulations and I want to say that I agree with him and I am sure all Members agree with him, that it is quite intolerable that disadvantaged people should be required to live in substandard accommodation and that landlords should do nothing about it. But I think it is a mistake to demonise all landlords. The vast majority of landlords are decent and honourable people who do the best they can to look after their tenants. It is a small minority that cause the problems and they should be relentlessly pursued. I would vote for these regulations if I thought that they did any good for tenants, for landlords or indeed

the Government. Unfortunately, it seems to me that they fail in all respects and offer zero benefit to anyone. They create more bureaucracy, another 6 civil servants we are told who will cost the Treasury at least £500,000 a year every year and add expense for landlords, which may in some cases be passed on to tenants. Government should not impose burdens on any section of the community unless there is some clear public advantage which will come from it. The Minister asks: what is the difference between a registration scheme and a licensing scheme? The starting point is that a licensing scheme is a substantial inroad into personal liberty. At present if you own a property you can live in it or you can rent it out. If these regulations come in you will not be able to rent it out without the consent of the Minister. How does the Minister decide if you can make use of your own property in that way? He must be satisfied that the application meets the requirements of the scheme. What is the scheme? The only information about the scheme is in Article 2, which tells us that the scheme's purpose is: "To ensure the safety of rented dwellings and the health and safety of persons occupying them." That is the only limitation on the Minister's power. A civil servant can look at an old staircase and say: "That is a bit steep, that is not safe; somebody could fall down that" or: "There is a damp patch on that granite property's bedroom wall; that could affect someone's health. No, you cannot rent that out." Am I being extreme? Can one trust civil servants to be sensible? When personal liberty is in question, I do not think that one should assume that civil servants will always behave sensibly because experience tells us that sometimes they do not. This is not light-touch regulation. If the scheme required landlords to comply with safety regulations passed by the Assembly that would be different. But that is not what the Minister's scheme says. It is much more widely expressed, administrative powers should be tightly drawn so that excessive authority is not conferred on officials. These are not, they are dictatorial powers enabling interferences with people's right to do what they want to do with their own property in ways which might surprise Members. There is then an extraordinary provision in the schedule and I invite Members to look at it. The schedule sets out the standard licence conditions; change of address, contact numbers and so on, all that is obviously fine. But paragraph 2(e), if I have got this right, says that a landlord must also notify the Minister and I quote: "Of any other change of circumstance that could lead to the Minister withdrawing the licence." Really? What are those circumstances? How can one know what those circumstances are? But if you fail to notify the Minister of these circumstances your licence could be taken away. Important as these questions of personal liberty are, is there a public interest in adopting the regulations which outweighs them? The purpose, so the report says, is to: "Allow significant compliance issues to be tackled, making it easier to give effect to minimum standards." This point has been picked up on numerous occasions; the Minister repeated it this morning and even a leader in the local paper. If the regulations did help to ensure that minimum standards were met, that would certainly be a reason for supporting them. But how will requiring landlords to get a licence to rent out property help to ensure minimum standards? The report does not tell us, nor does it give any indication of the kind of questions which might be included in the application form. The Minister has been rather coy about that and I do not understand why the draft application form could not have been attached to the report. It must exist, why can we not see it? Be that as it may, what the Minister said in answer to my question yesterday was that: "The scheme would help by giving information about tenancies which would enable inspections of property to take place without disclosing to a landlord that his tenant had complained. He would then be able to do something about substandard rented dwellings." I hope I did not misunderstand his answer yesterday. If that is the reason for bringing in these regulations it seems to me rather weak and unpersuasive. If a tenant brings a complaint to the attention of the authorities, surely he must expect some action to be taken. I do not accept that you would make a complaint to officials just to have it written down. Indeed, if officials become aware of breaches of environmental standards regulations, I think they have a duty to do something about it. The Minister says in his report that many of these complaints cannot be acted upon and I quote: "Because of the reluctance of tenants to pursue action against a landlord." It is not for the tenant to take action against the landlord, it is for the Minister and his officials to take action. If the Minister knows of some rental accommodation that is substandard and it does and indeed he

conceded it in his speech this morning, why has he not done anything about it? He says that there are no adequate means of enforcement and the only way in which it can be enforced is through a criminal prosecution and that is very difficult. I do not know whether the Minister has read the 2018 law or not because it seems very curious that the report quotes Article 5 of that law at length but does not mention Articles 6, 7 and 12, which contain very wide powers of enforcement. If the Minister knows of premises which are substandard he can, through any authorised official, inspect and carry out an assessment of the dwelling, issue an improvement notice requiring the landlord to put matters right and if the remedial action is not taken, he can undertake the work himself and recover that expense from the landlord as a civil debt. Why has that not been done in those cases where the Minister is aware of substandard properties? Why has Members' attention not been drawn to these existing enforcement powers in the 2018 law? Those statutory provisions seem to me completely to undermine the justification for these regulations. Requiring landlords to get a licence to let out property is not going to help to eliminate substandard properties. Firm action using existing enforcement provisions is much more likely to have a salutary effect and he can do that already. Identifying substandard properties is the key; I am sure we would all agree on that. But a licensing scheme is not going to do that, only tenants are likely to provide that information, not landlords. Why does the Minister not use the simple and cheap expedient of installing a confidential helpline in his department where tenants can report their problems with unco-operative landlords to the authorities? Some may be reluctant to use the helpline but many will not. Sometimes the obvious solution is the best one. As to the argument that landlords might evict a tenant who complains, I have 2 answers. The first is that although much is made of the so-called problem of revenge evictions, in the Petty Debts Court where orders for eviction are made, no one has heard of them. I am not saying that there has never been a vengeful response but a court official who has sat through most eviction proceedings over the last 9 years has told me that she has never heard a tenant say that the action was one of revenge. Nearly all are cases where rent has not been paid or some other breach of contract has taken place. That is not surprising because - and this is the second point - few landlords would risk behaving in that way, given that the law confers an absolute discretion on the Magistrate to delay the execution of an eviction order. Delays of 3 years used to be common but there is no reason why a delay should not be for 5 years or more in the case of vengeful conduct by a landlord, which would clearly be a relevant matter for the Magistrate to consider. Finally, I accept the usefulness of a register of landlords and tenants. It could give accurate information about rents and indeed deter excessive increases. The Jersey Liberal Conservatives have that commitment in their manifesto. Whether the licensing scheme will give us that information about rents we do not know because we have not seen the application form. However, there is in fact already a register in the form of the Jersey Land and Property Index, which is maintained by the Environment Department, that could sensibly be enhanced and I would certainly support that.

[12:45]

But that is different, as I have said, from a licensing scheme. The Minister claims it would be useful to be able to revoke a licence but that would never in practice be done.

The Deputy Bailiff:

Deputy, you have reached your 15 minutes.

Deputy P.M. Bailhache:

May I have one minute to finish, Sir?

The Deputy Bailiff:

I do not think that is permitted by the ...

Deputy P.M. Bailhache:

I am sorry, Sir?

The Deputy Bailiff:

I do not think that is permitted by the Standing Order, I think that is a hard 15-minute limit.

Deputy M.R. Scott:

Sir, may I ask the Attorney General a question?

Deputy I.J. Gorst:

Yes, Sir, I should maybe come to your help, I wonder if we could break for the adjournment now.

The Deputy Bailiff:

It might be helpful to have the question asked now so the Attorney can address it, think about it over the adjournment. Yes, Deputy Scott.

Deputy M.R. Scott:

It is on this question whether the 2018 law under which these regulations are made, I understand the Minister saying that they do not allow random evictions and I would like the Attorney General to just confirm whether that is the case or not. Does the law, without these regulations, allow random inspections?

The Deputy Bailiff:

Do you want to come back about 2.15 p.m., Mr. Attorney?

The Attorney General:

I can deal with it now but I am happy to do it at 2.15 p.m.

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

The adjournment has been proposed by 2 Members now. Are Members content to adjourn now?

Deputy M.R. Ferey of St. Saviour:

Sir, as we adjourn for lunch I would just like to draw to Members' attention that there is a Closer to Home event in the Royal Square over lunchtime - over 30 charities showcasing the great work that they do, everything from Autism Jersey to EYECAN - and I would like to ask Members to spend a little time and see the great work that local charities do. **[Approbation]**

The Deputy Bailiff:

Thank you very much. We will adjourn until 2.15 p.m.

[12:47]

LUNCHEON ADJOURNMENT

[14:15]

The Deputy Bailiff:

The next Member to speak is Deputy Luce.

5.1.2 Deputy S.G. Luce:

I would like to just start by saying to the Assembly that I am committed to this process and they may remember, some, that I was in the Minister's position between 2014 and 2018. The 2018 law that we have referred to a couple of times came to this Assembly quite shortly after the previous Minister for the Environment had taken office and a lot of that was rooted in my Ministry had started then. I use that only as an example to show to Members that I am committed to this process and eliminating

bad landlords and bad properties that do not meet minimum standards. I have seen the evidence, I have seen the photographs, they do not make pretty reading and how people can live in some of these properties is, quite frankly, beyond me. But I have been a landlord and a tenant and I was fortunate enough to be a tenant for a very, very good landlord for 20-plus years. But my experience of being a landlord myself was mixed. I was fortunate enough to purchase a very small bungalow in my 20s. I lived in it for a while and then rented it out. I rented it out completely refurbished and my first tenant after 6 months left and left the property in such a condition it needed to be completely refurbished again. I was then fortunate enough to take on another tenant who lasted 20-plus years and did not give me a moment's problem. I use those examples just to say that on both sides of this there are good and bad and invariably they are good. We need here to find the best compromise we can, how we best target those dwellings that are not good enough and not up to standards. I absolutely agree with the principles of what we are trying to achieve here but I want Members to know that my Scrutiny Panel are minded and have agreed to call this in at the end of this debate if these principles are approved. I am just going to say very briefly why because I am not going to speak for very much longer. We just feel that we need to consult with the wider landlord community, those people who mainly own fewer numbers of properties, single properties or 2 properties. We want to look at red tape and find out whether it is the Minister or others that may be correct in their views. We want to look at the cap that may or may not exist on fees. I hear what the Minister has had to say this morning, we will need to verify that. We want to look at the code of practice and see if we can find out some more detail about it because it is not yet available for us to scrutinise. We want to look at - and it has been mentioned - the potential combined effect of this proposition with the Minister for Housing and Communities' White Paper and some policies in the Island Plan that talk about carbon and insulation, building bylaws being upgraded and also the energy performance certificates. There are a number of issues that my panel want to look at. But be assured I will be voting in favour of these principles and, if they are accepted, we will look closer at them before coming back to the Assembly.

Deputy M.R. Scott:

Just to remind you, Sir, that I am awaiting an answer from the Attorney General to the question that I asked, whether the law allows random searches?

The Deputy Bailiff:

Do you want that answer now?

Deputy M.R. Scott:

Yes, please.

The Attorney General:

The 2018 law sets out the powers of investigation in Article 6 and the conditions for the power of investigation to be exercised are simply there has to be a rented dwelling to start with. But then, secondly, there has to be production, if required, of evidence of the authorised person's authority notes; so the authorised person would be one of the Minister's officers. Then the third requirement is simply reasonable time upon notice to the occupiers of a rented dwelling. Article 6(3) goes on to prescribe a minimum of 24-hours' notice, except in cases of emergency or a couple of other minor exceptions, which I do not need to repeat. Subject to those 3 requirements, the powers of investigation of one of the Minister's officers can be exercised. In fact provided those conditions are satisfied, then a random check can be made but subject to those 3 conditions, assuming that these regulations are approved.

Deputy M.R. Scott:

There is no power without these regulations being approved. It is necessary because I thought ...

Deputy M.R. Scott:

Anyway, just I am trying to establish whether under the law as currently drafted there is that right to have random checks.

The Attorney General:

Yes. The law sets out that power of investigation. I have already said that the conditions are simply reasonable notice, production, if required, of evidence from the authorised person's authority. Yes, there is a power to make random checks.

The Deputy Bailiff:

Thank you, Mr. Attorney. Do you want to address the Assembly now, Deputy Scott? Do you want to make a speech now or later on?

Deputy M.R. Scott:

Yes, if it is my turn, Sir, thank you.

The Deputy Bailiff:

It is your turn, yes.

5.1.3 Deputy M.R. Scott:

I asked the question because I just wanted to be clear exactly. When I was listening to the Minister explaining his rationale for bringing these regulations, the proposed regulations and his objective, whether it seems the right way to be going about things. Because I totally accept that the rights under the law that give him powers and his officers powers to inspect properties and to enforce these minimum standards should be enforced. But it does seem that they can be enforced, regardless of whether these regulations are passed or not. I have difficulty in understanding or even accepting the rationale for bringing these regulations in this way. Because it seems to me and it is nothing new, unfortunately, when it comes to the Department for the Environment that we are talking about enforcement, enforcement, enforcement or lack of it, lack of it, lack of it, which of course we have come in different areas of planning. But here we go, it really comes down to this, the real motivation seems to be to come up with a way of extracting fees from an area of the population saying, well, this is because we are regulating you. It is a stealth tax. In imposing that stealth tax we are not really kind of like getting any guarantee that the enforcement will be better. We have just been told it is going to be better because we are going to pass these regulations and it is going to make it better. I am sorry, I think it should be better right now and, in the meantime, you have got officers who are going to end up being given a job to collect all these forms, produce these licences or this kind of blanket licence to all these landlords, when we already know that landlords have to provide information in order to register their businesses, which is why I have asked so much about why would you have licensing as opposed to registration. I feel I know the answer; it is so you can charge them fees. You need to really understand what that means, not just for the market in terms of the rental market but also in terms of the cost of housing and these things. There is a systematic issue here and I do not really feel that the risk assessment in terms of how that is going to impact on people's accommodation and how that may in fact impact on a sector who in an ideal world would not even perhaps be there. Because a lot of the time they are just compensating for the fact that Government is not providing enough social housing. This is where the Chief Minister, who happens to be in Rwanda, has been on record for saying and criticising a former Chief Minister about a lack of joined-up thinking. Let us go on about this lack of joined-up thinking. Let us compare the regime that is being set out here with a regime by which lodging houses are registered because they are exempt from these regulations. What happens with lodging houses? They happen to be registered.

Deputy J. Renouf:

Will the Deputy take a point of information?

Deputy M.R. Scott:

I believe the Minister has a chance to pick things up in his speech.

The Deputy Bailiff:

Yes.

Deputy M.R. Scott:

Rather peculiarly the law there, who is the Minister responsible for lodging houses? It is the Minister for Housing and Communities. What I see is we have already got a structure that supports siloism and it is being evolved even more. I do believe the Minister for Housing and Communities was originally looking at in respect of other areas of rental regulation, rather than the Government just stepping back and saying, what is a really good systematic, effective way of ensuring that tenancies are properly regulated? But let us even compare the actual cost of the fees of registering under the Lodging Houses Registration (Jersey) Law compared to what is being offered here. We are told it is just such a small amount. Why is it different from the cost of registering under the Lodging Houses Law? Is somebody going to explain that to me? From what I understand it is £15.08 per lodger for lodging houses but here you can have one person in a single studio flat and the actual licence fee would be £60, so twice as much. Something about the increase in cost of living, I really do not know. I am sorry, it does seem to me to be a stealth tax justifying or saying well it costs less to run this department that already has a responsibility for enforcing standards and can do random checks. Let us look at the standard licence conditions because, yes, that is meant to give us the assurance that these minimum safety standards will be enforced; they are already in the law. If you look at the standard licence condition number 1: "The licence holder must ensure that the rented dwelling complies with the minimum safety standards whenever it is used as a rented dwelling." Look at the definition and it just refers to the law. This reminds me of this joke I once heard about somebody went into a pet shop and wanted to buy a bird that could speak, I think it is a parrot, said to the pet shop owner: "Does it speak?" "Yes, it speaks."

[14:30]

The guy takes it home and it does not speak, so he goes back to the pet shop owner and says: "It does not speak." The pet shop owner says: "It needs a mirror and then it will look in the mirror and then it will speak." It does not, he goes back again: "It needs a ramp. If it goes up a ramp and look in a mirror it will speak" and then, no, it does not and then he is told: "It needs a bell, he needs to run up the ramp, look in the mirror and ring the bell and then he will speak." He bought the bell on top of the ramp and of course the mirror and then he went back to the pet shop and he said: "The parrot is dead." It is not Monty Python skit and the pet shop owner said: "But did the parrot speak?" He said: "Yes, he said does that pet shop not sell any bird seed?" I remain somewhat perplexed at this as a solution to our problem, of which the law ... in their wisdom the States Assembly thought there was a problem, let us solve it by passing this law and they did, and yet we are not seeing the effect. It is rather like there was that law about it had a rental tribunal and we had all this effort to bring in another rent law and then suddenly somebody said: "Look, there is already a law for a rental tribunal." This is a mess, this is a dog's dinner. Consequences, there is no substitute for social housing being enough and setting the standard. This stuff about removal of licences and negotiation tactic, well, Deputy Bailhache has been down that route. You are going to threaten notices, you can threaten criminal charges because the law already has that framework. What I find so disappointing, given what we have already seen in terms of a kind of approach where I have already seen the rights of the Assembly eroded in terms of now we are getting Ministerial policy being made under the Planning Law without States Assembly approval, although apparently it is not policy but there is a bit of an argument about

that. But a tree order that got put out there and caused a whole load of people to cut down trees. I am going to say, hey, I am not convinced that this is really the right way to tread. This is clearly inflammatory, bring in licences when already landlords are registering and the law gives all these powers. I am not convinced. I am really disappointed to hear terms when people talk about landlords and that they point out these things and they say they have a vested interest. Thank goodness you are not bringing back witchcraft, trials of witchcraft because I am a woman, I will have a vested interest. People talking about landlords being a baying mob. I am sorry, this is an incredibly divisive and inflammatory way of going about things. I would prefer that the Minister talk to his officers about looking into how landlords already are registered, how that information is collected, how that can already form the basis of a register and really just look at filling any gaps if there are any and not bring in, essentially, a stealth tax saying we are not going to employ any more people but, hey, good landlords need to pay for bad landlords. I suppose I do in tax, but how about specific. I need to have a licence because I am not in prison, I need to pay for people who are in prison. We could raise loads of money this way. As I say, I remain perplexed by this. I believe that there is a better way but, unfortunately, the Chief Minister is not here to tell me that.

The Deputy Bailiff:

Thank you, Deputy Scott. Deputy Jeune, your light was on briefly, did you want to speak? No.

5.1.4 Deputy M. Tadier:

That is good timing. I feel inspired after that, if that is the best that the against lot can put forward. I am not sure if there was a cohesive argument in there at all but it has given me food for thought and it has certainly given me a good segue into a point I was going to make. First of all, let us deal with Deputy Bailhache's comments; we know what the position is of the Liberal Conservatives. The 2½ Members that they have got in the Assembly, I think we have just possibly heard from their third member who has got an application in the post. Basically it went back to the we do not want it and do not like it argument. I think that we heard the other day, except it has got the added benefit of having a parrot in it. It did seem that some of the arguments that we heard were being parroted and being repeated and of course a lot of the arguments have been, I think, copied and pasted several times over the internet over the last few weeks. That is good, it is good to see lobbying and arguments put forward, some of which are perhaps more valid than others. I remember Deputy Bailhache probably in a different debate talking about *donner et retenir ne vaut*, and this is to do with trust law I think. It seems to me that we hear time and time again the argument that some landlords ... because I think most landlords know full well what they are doing, I do not want to lecture anyone about it, we have probably got landlords in the gallery who have been doing it for years and I am sure want to be very effective in what they are doing. But we hear the arguments about there are bad tenants as well, and no doubt there are, but let us take it away from the properties or accommodation or homes that people live in. Because I think underlying this there is an element about the human right, which is the peaceful enjoyment of one's property. Of course I would say that something fundamentally changes when you rent out your property, is that at least to a certain extent it stops being yours partially for the time which it is rented out; you cannot have it both ways. If you want to live in a property that you own you can do that, as soon as you rent it out you accept that it is somebody else's home for a period, which could be a year, 5 years or maybe decades. That is why I go back to the idea of *donner et retenir ne vaut*; you cannot both give and retain. It is a bit like saying in more vernacular terms you cannot have your cake and eat it. But if you think about a car you could have a conversation that went like this. "You will never guess what, I rented out my car and the car came back and the person had only gone and put 500 miles on the clock." "That is terrible." "Yes, and the clutch was worn out, the clutch was not like that when I let it out and I also needed to fix the windscreen wipers." "That is terrible, what, your car?" "Yes, my car". "How could they do that to you? I presume you took a deposit." "Yes, I did and I took it out of the deposit but still that is not the point." "Yes, you worked hard for that car." "No, to be fair, I inherited it off my parents,

it was a present.” “Yes, but, nonetheless, it is still your car.” That is the argument we kind of hear with property, is it not, with homes that are being let out? Some people have no doubt worked very hard for their homes that they rent out but it is kind of irrelevant, they may have also inherited swathes of land and properties going back to the feudal period in Jersey, which we know does not have any inheritance law and they may have been renting out properties without having to do a day’s real work in their lives, but I am sure that is not the case for most landlords. We should not fixate on those kind of arguments. Let us turn to the pet shop, shall we, because the pet shop did get me thinking? It reminded me of probably my favourite Pink Panther movie, which is “The Pink Panther Strikes Back”. Moving from the parrot to the dog and Clouseau, I think, is in Switzerland trying to find Dreyfus, who is locked up in his castle and he is gradually going mad. I think we are starting to know what that feels like. After only 2 days of debate, good luck for the rest of the week. Clouseau says: “Do you have a room?” The Munich hotel clerk, which is what it says there, says: “I do not know what a room is.” Inspector Clouseau, he checks the translation book and he says: “*Zimmer*” like that. That is starting to feel a little bit Monty Python, is it not, about the Hungarian handbook? He says: “A room” but with a Swiss accent, the *Hof Deutsch* no doubt: “That is what I have been saying, you idiot, a room.” Then he sees the dog on the floor, we all know this one, it is an old joke but put into slapstick by Sellers: “Does your dog bite?” “No.” Clouseau bends down to pat the small dog, it immediately growls and bites him and Clouseau says: “I thought you said your dog did not bite.” The answer is: “That is not my dog.” Guess what, in Jersey you need a licence to have a dog. I know it because I have had to register my dog in more than one Parish over the years. We do not get a letter from the Jersey Kennel Club, if such a thing exists, saying: “You know what, that is just going to put the price of dog ownership up: “I am a breeder”, I am not but the hypothetical person is saying: “I am a breeder and I am going to have to pass that on to my client, so when they buy one of my litter I am going to have to charge them an extra tenner” or whatever it is. You do not hear them writing letters about that. Maybe they would if we did not have a licensing system for dogs, maybe they would be inundating us with those kind of letters but we do not. Also, I found the position of the Liberal Conservative Party, if it is an official position, we have only heard from 50 per cent of the party today. They are saying but do not worry, we are in favour of a register. I will say to them they are 9 years too late because I brought that proposition in 2014 and it was adopted by a majority by the Assembly, including the Minister, who amended it, interestingly. I asked for it to be put by the Minister for Housing and it was amended to the Minister for Health and Social Services, so let us add another Minister into the mix there. I am not so fussed about which Minister ends up bringing this forward or which Minister ends up enforcing this because I see the Council of Ministers as a collective. Of course there is an argument later on about whether it should all be under the Minister for Housing and Communities and we can have that, but I think let us not run before we can walk. The point is a register and a licensing system are not mutually exclusive. Let me give you some examples, we have that register of dog owners. We know that there is a list, which is presumably kept by each Parish Hall and it might be centralised as well. There is an F.O.I. (freedom of information) request, which I know about, and we know how many dog owners there are that are licensed in Jersey. We do not know about the ones that are not licensed, so they are the only ones that we can enforce. If a dog goes missing and bites somebody, whether it be in a Swiss hotel or on a beach in St. Ouen, we can then look at the collar and say: “This is your dog, you have got a licence and maybe we are going to fine you, maybe we are going to take your licence off you.” We have got a register and we have got a licensing system. There is a register of hotels and, guess what, you need to have a licence to run a hotel. Who would have thought that? That has got to put the pricing of hotels up, has it not? I presume they have to pass that on to the tourists or the business visitors. You have to register and have a licence to run a restaurant. Why are we demonising restaurant owners? Somebody has worked hard to go to Highlands College to learn to do their cheffing or their sous cheffing but we demonise them by saying: “You have got to get a licence.” Why do we not just wait for the bad restaurant owners to poison people? You should wait for complaints to come into Environmental Health and then say: “Yes, you know what, maybe you should not be doing this.” We

do not do that because that is a silly way to do it because harm will have been created to those people, and I say it is exactly the same argument that Deputy Renouf, as Minister here, has been putting forward for safeguarding people. Of course I think we have also got to get over this dichotomy of good/bad tenants, good/bad landlords and look at the properties because you can have a perfectly good landlord who has got, for whatever reason, a bad property. He or she might have inherited a property, does not really know what to do with it, got not much choice but to put it on the market. You could have a morally indifferent landlord who has got a whole swathe of excellent properties. I think the good and bad of the ethics do not really come into it and that is why the idea about licensing the premises is also a laudable one. Do I need to go through taxi drivers, P.S.B. (public service broadcasting) licence holders? There is a register of taxi drivers. There is not a register of Jersey Lifts, by the way; I will just put that on the record now because there might be some taxi drivers listening. But the point is we need to know that there is a minimum standard of safety and of expectation that when you go into a taxi both parties know what is expected of them. Taxi drivers may complain about a lot of things but certainly I do not think they complain about having to be registered. In fact they say: "We like being registered and we would like the Minister for Transport, D.f.I. (Department for Infrastructure), to licence all taxi drivers and not allow Jersey Lifts to keep on operating." I will just leave that there. I did not get what this argument was about a stealth tax.

[14:45]

I do not see this as a stealth tax. Successive Governments have been very good at producing stealth tax, in my opinion. We could look at them and we could list them, but this is not a stealth tax. I mean, this will probably I doubt even pay for the administration. It is hopefully a break-even scheme, so I do not see it as a stealth tax at all. Lastly, I know Deputy Mézec had said this argument in the past. One of the arguments we have been getting is that: "I will sell up. I am a landlord." Currently 70 per cent of the membership apparently of the Jersey Landlords Association have considered selling up and leaving the market. I do not wish to sound glib - as I have said before, my wife is a landlord - and my answer to that is just 2 words: so what? We do not listen to this special pleading from the restaurateurs or the taxi drivers if they say: "I am going to consider leaving the industry if you regulate me." They are already regulated and they work within that regulatory framework. Presumably if you sell your properties or your property, you have to sell it, I am guessing, to one of 2 types of people. You sell it to somebody who is going to become a home occupier, so an owner occupier who will live in that home. Guess what that does? That is one less home you need to build. Have we got a shortage of homes at the moment for people who want to own and buy their own homes? Yes, we do. The Minister for Housing and Communities wants to build how many, 1,000 units possibly? If he could build 1,000 units in the next year, I am sure he would love to do it. So every landlord who sells up to somebody who buys their own home to live in it is a positive, but of course I am not suggesting that would happen anyway. If they just sell to another speculative landlord, then there is no change. It goes from one landlord to another landlord, but it goes to a landlord who will be willing to operate a regulatory framework. Of course it is up to the landlords what they do. They can sell their properties, but they have to also be aware of the current market conditions, so I will leave that one there. Those are really the only points I wanted to make. It is probably longer than it might have needed to be, but because we have got a 15-minute limit I will leave it there, simply to say that it is nice to see the 15-minute limit working. It is a hard 15-minute deadline and I know that it is perhaps slightly perversely gratifying to see people who would have probably voted for the 15 minutes were in the Assembly being also caught out by the 15-minute rule.

5.1.5 Deputy A. Curtis:

It is always hard following Deputy Tadier, you know, you can never get the jokes in the same way he does, but I will try to be short and brief and be well within my 15 minutes. I will at this point re-declare I am a landlord of one unit. I would like to clarify to Deputy Scott, I heard the mention that the use of a licence and not a registration was as a stealth tax, as a way to collect money, and then 2

sentences later we heard that lodging houses were registered, not licensed, and they collect fees. I do see that if we are debating registration and licensing, the Government have a precedent of applying fees on both, and I would like to make that point. We have all received significant representation on this, many opposing this, but a few points I will add to this. We have heard about - by people contacting us - the availability of data and the ability to use our existing systems. I do not like standing up in the Assembly and saying our data is not what it should be, but in this instance I will say our data is not what it should be. While maintaining the correct data control and compliance laws, we cannot go to mydeposits - or we do not at the moment - which holds perhaps one of the best stocks of data here. We do not go to the Parishes. My ask on this comment is to the Minister to ensure he works across Government to ensure that when we are delivering a better platform for data we are doing so in a way that reduces red tape, uses processes of automation to reduce form filling - the best form is one you do not fill in because it is self-automated - and brings back trust to Islanders by getting data in their hands that they own. On the topic of a registration versus a licence, the Minister may not remember, during one Council of Ministers I asked him quietly, I said: "Look, do we need a licence scheme? You know I hate red tape, I hate bureaucracy. Do we need this?" and I said: "I feel a system of record where we have landlords and tenants submitting photos in lieu of inspections and then we could prove anonymity and do inspections ..." but the point the Minister made, and he has made well in his speech earlier, was that a licence is a permission to act. It allows you to regulate an industry without requiring the pursuit of more draconian measures. If done properly, it will not be bureaucratic and it could save time and minimise cost, reducing the requirement of lengthy and expensive court cases. On this topic of bureaucracy, I have thought long and hard about this and whether licences impact this. Could it be handled by registration? I think the Minister has given a good argument, but I think unfortunately Deputy Tadier has stolen my thunder in thinking about the wider regulatory landscape of Jersey and where we might look at other things. The Assembly may remember we approved a new food licensing law. This is replacing an old outdated 1967, I believe - although I could be corrected - food registration law. Let us walk through the process that would have happened. In the past, a business who wished to produce food on a premise, either for sale off the premise or on the premise, would register with the department by submitting a form and the department will inspect, if required, at some point the premise. Under the new proposed form that the principles are agreed, I expect what will happen is a business will submit a form to the department and they will inspect if it is required. The difference is now that the department will be able to positively work with food producers to better regulate the environment. This works on the basis of trust that we are putting in the Minister that he will bring forward the right regulatory regime and not one that is zealous or overly administrative. Looking beyond this, we can think of other licences. As a business owner, I hold various licences - I hold a liquor licence, I hold a Customs and Excise production licence - and in the case of the latter the Customs Department email me every year. They are very polite. They say: "Would you like a licence for next year?" I say: "Oh, that would be lovely." They go: "Brilliant. Here it is." They do not charge me in that case and I am going to plead to the Minister not to introduce user-pays charging there. I should not have mentioned it, but it is that simple. I say: "I would like a licence. I would like to continue trading and producing" and they go: "Yes, that is great. We have a licence. We can remove it if we need to in future, but you can keep trading." My liquor licence used to require me to submit a paper form and you go: "Gosh, you have got this information." Now that is digital. I get an email from the regulations manager for licensing. I get a reminder when I forget and they say: "You really do not want to pay the late fee" and I submit the form; I make the payment. The value of these licences in both cases is because I am performing an activity that it is valid conditions could be attached to. We can think about all sorts of licences that have value in this case. Driving licences: we do not want a register of drivers who then we have to take more punitive or trickier measures to ... gun licences: I am sure the Connétables who approve gun permits would prefer a process in which we can validate and check, where required, and remove a licence rather than a gun registry. On this concept I go back to Deputy Bailhache, considering that a dwelling licence may be an infringement on liberty. I

would ask in the same instance as with a gun licence or for the Department of Infrastructure, a waste management licence, are these infringements of liberty or are they part of the social contract that individuals and businesses make with society in which to operate? The ask we all must have to the Minister - and give trust in him, like many of us did in the Minister for Infrastructure earlier - is to bring forward the correct licensing scheme. For those still doubting this and worried about red tape, I will pose a thought experiment along the lines of my customs licence. If Government have all the data on rented properties they required already, if they enacted a licensing regime with no charge and one day a licence appears through the post box or by email to you and it says: "Here is your licence. It will auto-renew. You will never touch it. It is there to allow you to trade" but it gives, as I said, a permission to act, who could still make the point about bureaucracy and red tape within the system in opposition to a licence? It is the scale of how we implement this that will be the bureaucracy. I repeat, licences do not have to be bureaucratic. I remain concerned there is the scope for bureaucracy, but we are debating, I believe, the principles of this part of the licensing law. I pay £114 for my sixth category liquor licence and to me that is a significantly more substantial licence. It is quite significant. There are far fewer. So I still question the £30 per year that should be charged. I think it would be fair, given 20,000 properties roughly, I think, are rented on-Island, that this is considered a cost Government should embed in business as usual and that I might consider this in future. This would avoid scope to treat ... and realistically it is something the whole Island pays because half the Island use this and I will consider whether in the future a proposition to that effect is needed. I am concerned, as others have said, about the ongoing risk of bureaucracy by other legislation, but this is not the place we are dealing with this. Scrutiny have said they will call that in and I myself will make sure that I stand strong against bureaucracy from the wider legislative landscape of housing. A licence can be as simple as a row on a database, updated automatically or by simple confirmation. It can also be highly bureaucratic with great administration cost and red tape. I would not support the latter, but I and the team of Modernisation and Digital will support the Minister in the delivery of a new approach that meets the needs of the Island without undue red tape.

5.1.6 Deputy R.J. Ward:

I am pleased to follow that. It is a sense of déjà vu for me here, because we have been here before and we agreed the principles before. I have to say - and I am a great exponent of Scrutiny - I am slightly disappointed that we are taking this in, the regulations to Scrutiny again, because I hope what happened last time does not happen again, where the regulations came back and lost by one vote. I will note that both the Chief Minister and the Deputy Chief Minister voted against and are not here today and they have missed a chance to change their view, but I hope we are successful today. We all received a lot of emails, the same email, regards - and that is lobbying, that is fair enough - some of the issues and I think most of them have been dealt with in terms of bureaucracy and red tape and so on. But I have to go back to the point that was made by the Minister regards what this means, what this entails, to have a licence. To rent a home ... and let us call them homes because that is what they are, so they are people's homes, they live in them, they spend their days in them and their evenings, and they sleep in them, they are safe places and are places where you bring up children and you have relationships and you have friends and you live your life. That is what we are talking about here. They have to be of a certain standard and those laws already exist in the Rented Dwellings (Jersey) Law and they are minimum standards. I think it is a real key point here. We have a law that gives a minimum standard. Now, the argument is, well, why are we demonising landlords? We are not. This is not demonising landlords. This is doing exactly the opposite. It is saying to the landlords who reach those minimum standards that you should not have to be in the same arena as those people who do not reach those standards, but by licensing, this gives actual real-time information on who owns and who rents out these homes so that with targeted, informed inspection we can raise the standard of the lowest standard homes on this Island. That is what this is about. As to say we can randomly target without knowing where things are, that is extremely random. I really do not get the concept of how we do that without knowing who owns what and who is renting what. All that is

being asked ... and I will say that when this was accepted before there was no charge, but the argument was still that we do not want this, so the charge is not the issue. I genuinely believe that is a red herring. A £30 charge is minimal, and the point has been made a number of times that it is less than the fee to join the Jersey Landlords Association, which I believe is £35 a year, so perhaps in order to enable people to do that, cut your fees to £5 and everyone is better off. However, this is also ... you can put it against your tax, so it is a negligible amount. Now, given the amount that people are paying for rental, which is extremely high on this Island, that £30 is negligible and it should not have an effect there. So let us deal with that red herring as well. We cannot continually build up - and we do it a lot in this Assembly - tiny little pieces of straw, let us call them that. I know where I am going with this now. We build up tiny little pieces of straw - you may be guessing - and we turn them into a straw person and we attack that and it is not real. Then the debate becomes around those pieces of straw built together into something to form and we end up not looking at the issue itself. The issue is simple. We have an issue with some standards of our homes. We cannot deal with that issue as effectively as we could unless we know who they are, where they are and they are licensed. We licence, and so many speakers have already talked about how we licence everything else. I do not want to go to a café or a restaurant without a licence because I have no idea that they are reaching the standards that they should reach and they are inspected to ensure they reach those standards. It is a safety net for us in a modern society.

[15:00]

Not a Victorian society, a modern society where we all have rights and standards that we want to reach, particularly in our homes. One of the things about licensing, I think we are now ready for this. We are ready for this now because we are seeing with the housing issues that everybody faces and the cost of housing on this Island that you cannot just have a sector of our economy that involves so much money having ... and this is very light-touch regulation. I have to say that the conflating of this with other areas of housing law does not help anybody. These are again pieces of straw that are being put together to turn into a whole. It is like Gestalt distraction. You put these things together and the sum of it is greater than its parts and everyone gets distracted and we say: "Oh, we cannot vote for this because in the end we will end up with people losing their civil liberties." I do not believe that people lose their civil liberties or whatever it was, their personal liberties, because they have to have a licence at £30 a year, a form to fill in to say they are going to rent a home to another human being. Landlords have a responsibility; tenants have a responsibility to pay their rent. If they do not, they do not stay in the place. I mean, these are the things that happen. I would also say if we are going to talk about ... it is very interesting, because what sprung to mind when Deputy Bailhache was speaking earlier, and I cannot remember the actual phrase about personal liberties - I think it was personal liberties - there was a real irony there when we have a system, for example, if you sign up for social security you have to sign to give permission to get access to all of your bank accounts and the Social Security (Jersey) Law allows the department to ask you about your sexual activity in order to determine whether you are in a meaningful relationship. That is an infringement of individual liberties. That is a total act of infringement of individual rights. Now, that is nowhere near asking somebody ... and now, let us think about this, seriously think about this. Are you genuinely, I ask Members, conflating that with you have to fill in a form to get a licence and pay £30 a year to show that you are a landlord? They are in different worlds and the response to one should be very different from the response to another. So this is an opportunity today that we have to take in this Assembly. We were here before, we need to be here again. I would make the plea to not call this in for Scrutiny again because we have been through the Scrutiny process with this. We know the way this is going to work and I think what was mentioned in terms of scrutinising is conflating some of these ideas, and I really hope we can just get on with the regulations this time because regulations can be changed later if they are not working. I am pretty sure ... the Minister is very pragmatic. The Minister gets criticism from me for being too pragmatic at times, and I accept that, but for today it is very nice to be able to stand up and say: "You are doing the right thing" and it is nice for me to be able to say that

we are doing the right thing in this Assembly. That agreement across the Assembly is vital for us to show to both tenants and to landlords if you are providing a home for somebody of a good standard, at least that or often above minimum standards, and you are serious about doing that, we just want to know that you are doing that so that those who are not doing that, we have a standard that we can make them reach as well. You will not be undercut, you will not be undermined and you will not be associated with those. That is where demonisation comes from, when you are associated with things that are not you. As a member of Reform, I know how that works because we are often associated with things that are nothing to do with us and it does not work then and it will not work now. I urge Members to think very, very carefully about the little pieces of straw that are being thrown at you and how they are sticking together in your mind. Please isolate and look at what the reality is behind what we are trying to do here today in terms of a simple licensing system with a very low cost so we can move forward and raise the standards of our homes for everybody on this Island. I urge Members to support this in principle.

5.1.7 Deputy K. Wilson:

I am pleased to follow Deputy Ward on that very powerful expression, but I would like to start by saying that I personally enjoy the benefit of renting from a landlord who concerns himself with the fact that I and my partner, as his tenants, are comfortable and safe in the property that we rent with him and are proud to call this our home. But for those who cannot be assured in the same way, I concur with Deputy Tadier, Ward and the Minister for the Environment and also Deputy Luce, that I cannot stand by as Minister for Health and Social Services knowing that poor housing conditions are leading to poor health outcomes. Some may say this is the preserve of those who are on low incomes or who experience vulnerability due to their age or ability, but it is not always. Finding one's voice, even for the most articulate of individuals, can be off-putting, even daunting sometimes, especially if the threat of eviction is a real one. In this situation it would not be unusual to assume that a tenant could develop a high level of tolerance with their substandard accommodation, which ultimately leads to risks and hazards to their own health and safety. As the Minister for the Environment has already said, there is data and there have already been over 100 complaints this year about housing. The figure is considerably higher when you consider that many tenants will not go to Government in the first instance or at all present, for such is their fear of reprisal. The chief executive of Caritas recently wrote saying that affected Islanders do go to Caritas and many other charities, despite encouragement to report to Government, but many feel frightened to do so. On average, they see about 200 reports from tenants a year, split quite evenly between worries about unhealthy conditions, mould, poor plumbing and dangerous conditions, unfixed/damaged windows, unfixed wiring. This is a similar story that is shared by a number of agencies and charities alike, particularly the Salvation Army foodbanks and the Citizens Advice Bureau. I am advised that they also see similar numbers. I think the key message here is that social determinants do have important influences on the differences in our health and so approach to licensing underpins public health intervention, public health interventions being organised measures to prevent disease, promote health and prolong life among the population, so it will come as no surprise that my reasons for supporting the proposition are ground in the Ministerial responsibility for promoting good public health. Housing has got a long association with efforts to improve health, such as seeking to improve sanitation and reduce overcrowding to prevent the spread of infectious disease, and over time there is a robust evidence base that causally links poor housing conditions with poor health outcomes. History tells us that health officials, over time, have targeted poor sanitation, crowding and inadequate ventilation to reduce infectious disease as well as fire hazards to decrease injuries. It is astonishing that at this time we face the same need to target these particular issues. It is now widely understood in public health and by medical literature that a poor health environment with persistent exposure of children to parasites and infections can retard their nutritional absorption due to environmental enteropathy, which is disease of the small intestine. Children's health is particularly compromised in dwellings where there is a lack of access to bathroom facilities, clean water, heating

in winter and where there are damp conditions and these conditions could have long-term consequences and physical growth outcomes also. Black mould was cited as a particular issue in the Jersey Children and Young People Survey in 2021 and was linked to low self-esteem and deprivation. Most of us read about the little boy in England - I think the Minister referred to that earlier - who died as a result of mould in their dwelling. A good standard of housing significantly improves the health of young children and it is measured by decreases in the incidence of parasitic infection and the prevalence of anaemia and an improvement in cognitive development. For adults, welfare is measured by increased satisfaction with their housing and quality of life where they enjoy better accommodation standards. So licensing can help to safeguard vulnerable groups, including children and young people. Substandard housing has also been associated with respiratory illness and diseases such as allergies, asthma, bronchitis and lung cancer and the evidence suggests that structurally deficit housing stock cultivates home environments that are rife with indoor asthma triggers. There is also evidence that overcrowding can affect health and respiratory conditions. Noise pollution, lack of privacy and unsafe living conditions can contribute to stress, anxiety and other mental health issues. There is evidence that overcrowded housing can lead to sleep problems and strained relationships. Research undertaken by the U.K. charity, Shelter, found that sleep is regularly disturbed because of living conditions, cramped living conditions, which affect family relationships and negatively affect children's education. So licensing can create the conditions for safer and more supportive environments that lead to better mental health outcomes of tenants. Poor housing also disproportionately marginalises communities; it perpetuates health inequalities. A recent study by the *British Medical Journal* identified that people's health was adversely affected by old, damp and cold homes. The head of science and ethics at the B.M.A. (British Medical Association) suggests the best way to reduce health inequalities is to improve living standards and a systematic review by Thomson et al revealed that the best evidence indicates that housing which is an appropriate size for the householder and is affordable to heat is linked to improved health and may promote improved social relationships. There is a risk of accidents in the home where housing standards are not maintained. Housing hazards associated with poor health outcomes include air quality, warmth and humidity, radon, slips, trips and falls, noise, inadequate light and space, smoke and fires. These can lead, if they happen, to a loss of autonomy, greater isolation and depression, reduced mobility, so there is a wider concern to be had when we are considering the importance of increasing the standard associated with substandard housing. Although cases of falls are considered multifactorial, it is well-established that environmental hazards in the home are implicated in as many as one-third of all falls, many of whom end up in hospital. The values that we hold as citizens, as a society in this regard, are important and I would ask Members to ask themselves that we have an important choice to make in terms of the value that we hold around these particular issues. Are we really saying that we cannot support a basic initiative to improve the health and safety of tenants that basically enables all of our community to thrive and flourish? Landlords can support the prevention of hazards such as these through the basic provision of environmental safety features in bathrooms, toilets, halls and stairs. Licensing will help to enforce compliance with safety standards, reducing the risk of accidents, injuries and illness from occurring. Living in cold housing has been associated with lower general health status and increased use of health services. These health concerns have contributed to the development of standards for thermal comfort, so we can learn how to improve things by understanding the conditions and the experience people have in substandard accommodation with a view to improving things. I see that as a relationship between the tenant and the landlord and licensing is a means by which we can enforce some of those standards. Studies show that people's experience of housing instability may negatively affect people and their mental health. Licensing and the regulation of rental dwellings should empower tenants by ensuring their rights to safe and healthy living environments, to improving the safeguards and improving greater access to landlord information. These should also reduce the risk of revenge evictions, giving tenants greater stability and feeling safe to report concerns, both to and about landlords who are failing to meet their minimum standards.

[15:15]

There are economic benefits to improving conditions. Investing in healthier rental dwellings does lead to reduced healthcare costs, absenteeism in the workplace and improved productivity over time. As I said earlier, there is a plethora of evidence supporting these assertions. Based on the findings in the review of the evidence, I support the proposition and commend the Minister for the Environment for his personal commitment through these measures to improve public health for Islanders, but I would also agree with Deputy Ward's view that please ask Members to think more broadly about the impact that the licensing conditions have for the better health of Islanders.

5.1.8 Deputy C.D. Curtis:

It is good to follow the Minister for Health and Social Services with the interesting information about the health risks. My speech is a short one, to focus on the core points, which I think is very useful when there are different interests and priorities involved. In the most recent census, one-third of households were private rentals. For those voting against this proposition, you will be leaving many thousands of families without the right in real terms to a safe home. When I was younger, many private renters did so temporarily. They might be here for a short time, they might have sold a house and be taking time before looking for another, but that is not the case anymore. We know that a person on an average salary can no longer buy a house unless they have substantial other funds. Many private renters nowadays are private renters for life, so we have to ensure that these many thousands of families, including many children, have the right to a safe home. I will be supporting this very effective and proportionate proposition.

5.1.9 Deputy M.B. Andrews:

I have before me the Register of Names and Addresses (Jersey) Law 2012 and the reason why I have this law on my laptop is because I think it is a fundamental piece of legislation. The Chief Minister, under the law, is responsible for holding information in regards to names and addresses and I think this is probably a broader piece of work that could have been conducted. Now, in relation to this proposition today, what we do see is licensing for rental dwellings and I do support the need for enforcement potentially where there is substandard accommodation in Jersey, but I do feel there is probably more work and more remit to ensure that we are providing coverage for ownership of property as well. This is something that Deputy Higgins brought before the Assembly and I think there was an overwhelming majority to support him in respect of finding out the number of monopolies that were in the housing market. I think that provides a crucial piece of work, because we could understand the reasons behind Jersey's partial market failure in housing and it could provide us with the evidence we need to understand why things are so distorted, but looking at the proposition, we do not see any coverage in relation to ownership; it is just about the licensing of rental dwellings. I think looking at Deputy Renouf in terms of what he has outlined, both in private briefings and also here today, it is fundamental that we see there is a proven need, absolutely, and that is something that he mentioned, for a level of enforcement to be in place, but also he mentioned about there being a proven method. Now, I think there have been some reservations among some of the landlords who have obviously been contacting Members and I think they have also mentioned some poignant issues that we, as Members, have to be attentive to. I think when we are looking, for instance, where there could be a possibility where both a landlord and tenant are out of the Island for over a month, what happens then if there is a due date where there is an inspection that is supposed to take place and then officers do not have entrance into the property? What is the process? So I think we need to kind of see more specific reasoning behind certain situations that the Minister and his officers could be encountering in that respect, but nevertheless I think it is important that we do see something in place because this is going to cover both social housing and the private sector as well. I do not think that has been mentioned yet in the debate. So Andium Homes, for instance, will be responsible for paying £30 for each residential unit. Now, this is not just going to be the case where we could see an apartment block where there are 20 units and the person who is responsible or the provider who was

responsible for maintaining those units being enforced for all 20 of those units. Each unit will be inspected individually and I think that is really important that I do mention that, because it has been mentioned to us as States Members during private briefings, but it has not been mentioned today here in the Assembly. Now, the other thing that needs to be mentioned: what happens if there is a property where a landlord needs to be enforced? So what I am saying here is the unit is not habitable. What happens to the household? Are they removed from the dwelling? Who is responsible for that process? Because again, I have not heard any such mention about this and I would just like the Minister for the Environment just to provide some clarity, not just for States Members, but also landlords who are here today in the balcony and also who may be listening online or perhaps on the radio as well, because is it the landlord who is responsible for providing accommodation for their tenants while they are then having to renovate their property or is it the Government and is it the Government's responsibility? Because I think we are coming into this debate with plenty of questions and to some extent there have not been the answers provided. I think the Minister has done all he can, but there is further work that needs to be explained so people are comfortable with the process, both being a landlord and also being a tenant. Now, I am a tenant myself and it has to be said I am fortunately somebody who lives in social housing, but for those who live in the private rental sector, I think it is intimidating potentially having to report your circumstances to the department and of course there is insecurity of what happens to you, what happens to your family? Because the landlord potentially could be seeking revenge if they have been reported, if they have been enforced, if they have been found to be culpable of neglecting their tenants and neglecting their property. So I think this level of inspection that we see, it will be better, but I can also understand, as a landlord, having your property inspected and not being given notice, why some people potentially could be antithetical toward that as well, because we have to understand here there are some very good landlords. I have had a couple of discussions with landlords and I think they understand, as a Government, something needs to be in place because there are circumstances where some landlords give everybody else a bad name and it is those landlords, as a Government, as a legislature, we need to be targeting. We need to be addressing them. They should not have property. If they cannot maintain their portfolio, they have to be enforced. I think this today, where we see the licensing, that will allow us to provide that enforcement, but what are the conditions for enforcement? I think that is also another question where some landlords have been saying: "So how will I be judged? What is the specific criteria?" Is it already prescribed in our legislation or not? I think there is a level of ambiguity because I have heard some people saying they believe there is a good foundation already in place, but then I speak to other people who have informed me they feel there is a huge level of ambiguity and they are very nervous about this implementation happening. That has to be understood; we have to listen to people. You know, we were elected our by our constituents and our constituents are comprised of who? Both landlords and tenants. We have got to try and find that balance, but I think it is just important that the Minister for the Environment provides some clarity with some of the questions I have raised, but also, as I mentioned earlier on in my speech about the register of names and addresses, because it could make things so much easier, instead of coming back to the Assembly in the future and saying: "Well, you know what, we need to be addressing beneficial ownership of property." Also we could have the information in terms of how many private rental dwellings there are instead of having this convoluted process where we have got all these government departments holding different information about where people are based in their residency, because I think we do have incorrect information across government departments because it is not updated enough. If we just have one central mechanism in place, I think it would make it a lot easier.

5.1.10 The Connétable of St. Brelade:

While I would not wish to repeat what others have already eloquently said in this debate, I would like to emphasise the point made by Deputy Andrews just now, that the providers of social rented accommodation and in particular our own arm's length organisation, Andium Homes, are included

in the Minister's proposed scheme. I do question what the benefit will be to tenants, apart from a disbenefit of a £30 cost per annum. Surely these providers will already have their own inspection regimes so are we just not duplicating their efforts? The Minister will argue, I am sure, that we should be fair across the field, but I take the view that it seems rather circumlocutory and achieves very little. I am sure the Scrutiny Panel on which I sit will consult those social housing providers to understand better what inspections they presently carry out and the benefits, if any, which may accrue as a result of the passing of those proposals. Another consequence of these proposals will be the removing of properties from the market. In the instance that older properties are suddenly required to upgrade to standards insisted upon by the Minister's officers, there is a risk that a decision will be made not to proceed based on cost and to dispose of the property. Tenants will have no choice but to leave. We do need to quantify the numbers of those who may be affected in this way. We have heard so much of mould, damp and windows. I am not a landlord, but experience does tell me that these issues are often - but not always - driven by the lifestyle of the occupant, in particular in connection with a lack of ventilation. These matters are often outside the ability of a landlord to control and I do believe of course there is already an obligation in place for electrical checks. In conclusion, there is more work to be done to avoid us introducing this divisive legislation and it is something at present I cannot support.

5.1.11 Deputy A. Howell:

We can all agree that no Islander should be forced to live in substandard accommodation. There is no excuse for dangerous electrics and neither would anyone wish for a child to be subjected to damp or mouldy living conditions. We all want decent homes for everyone. Squalor though, a term that I might take the Minister to task on, because it is often not the landlord, but it is the tenant who is responsible. I am also aware that most landlords are good landlords and most tenants are good tenants, but landlords and tenants equally need to have protection from one another if they are not coming up with the goods. My inbox has been full with messages from landlords - and not just copy and paste emails - in opposition to these proposals. My problem is with the unintended consequences and I am worried about bureaucratic creep. The officers and the Ministers will reign supreme. What happens if the officers attending a property are too officious? What will the actual standards be? I have the impression that what is being proposed gives private landlords too little course for redress. The Minister's view is final. If you do not like his or her decision, tough.

[15:30]

You may be able to appeal to the Rent Tribunal, but we do not have a Rent Tribunal at the moment. Failing that, there is a possibility of a judicial review; but how much will that cost? We should not be bringing any law until it is clear. My main concern is there has been no proper consultation with landlords. Will it only be possible to apply for a licence online? Some landlords may not be able to do that. My worry is that landlords will be driven out of the market or choose to leave, but we are reliant on them for a third of our rental property. If they decide not to let their properties in the future then the Island will be in a mess. Worse, without a licence an individual or family will be homeless, so if they do not have a licence who is responsible, where will they go? I am all for having good properties but I think we must make sure first of all that Andium properties are up to scratch, and I would prefer to be encouraging landlords to sign up to the rent safe scheme and encourage those with one or 2 stars to improve, but not to demonise old landlords. We already have the 2018 law that tenants can use to ask Environmental Health to check properties. Let us promote that and encourage any tenant to be able to apply for that and then get the officers who are employed - we have got 6 officers already employed to be doing this work - let us let them do that. I stood for less bureaucracy and less red tape. If a section of our community are clearly making it known that they are unhappy and we are at risk of permanently alienating them then we should be listening. How much better it would be if the Minister for Housing and Communities and the Minister for the Environment could work together. I know they do different things and I know one is for regulation and one is for housing,

but I think we should get them to be talking together. I think at the moment these proposals leave too much ... it is not clear and we should not be passing it, but I am a real proponent of good, decent homes for people.

5.1.12 Deputy H. Jeune:

I am a landlord of a number of properties in Jersey and I support this proposition, which I consider reasonable and proportionate. The Public Health and Safety (Rented Dwellings - Minimum Standards and Prescribed Hazards) Order 2018 stipulates the minimum requirements which ensures rented properties do not pose a risk to the health and safety of its tenants. Landlords should have been complying with this legislation since 2018 but it is clear and unfortunate that there are some that do not comply and enforcement has been difficult. Mould is often cited when discussing standards and officers do take tenant behaviour into consideration, but they do see properties with cracks, broken gutters, no bathroom ventilation, that also causes mould. But I wanted to remind Members of the some of the other minimum standards that should be met by landlords. Personally, as a responsible landlord, I feel these are the bare minimum to ensure the health and safety of my tenants, rather than excessive bureaucracy. Install and maintain a smoke alarm, install and maintain a carbon monoxide alarm in any habitable room of a rented property with a gas, wood, oil, coal or similar heater or burner. The threat is real. A friend many years ago died in his bath from carbon monoxide poisoning, leaving 4 young children, the youngest being 6 months old. The threat is real. Have an annual gas safety inspection. In the aftermath of the terrible tragedies that we witnessed in Jersey in December this seems a reasonable request. Commission a professional electrical safety inspection to ensure electrical safety. There is also a list of prescribed hazards beyond damp and mould growth such as excessive cold, excessive heat, exposure to asbestos fibres and something that we have all talked about - asbestos - earlier today already and the dangers there. Inadequate personal hygiene, sanitation and drainage. Lack of access to safe water supply, which can you imagine that is in a law today in Jersey. An avoidance of structural collapse which could potentially harm tenants and their families. It is interesting how we look at this question of too much bureaucracy or excessive regulation. I put it into some context; when it comes to other sectors of the economy we take a very different view, for example when it comes to ensuring that our finance industry remains safe and trusted we are very quick to regulate. Indeed, regulation is seen as a badge of honour, is it not? Jersey Finance says on its website that strong regulation and international compliance are critical to our competitive offering, a priority shared by Government, industry and regulator, and a position consistently recognised by international evaluation bodies. In finance we pride ourselves on being well-regulated. Over the last few months we have made several changes to our regulatory framework in this Chamber in the lead up to MONEYVAL. Why? Because strong regulation reassures all players, clients, companies, international bodies that we are playing by the rules. It guarantees high standards. Why should housing be any different? Should we not be proud of effective regulation in the market for rented housing? Should we not be wanting to offer tenants reassurance that they are entering a market that guarantees minimum standards are respected? Should we not be demonstrating to people who we invite to come and work here that they can be sure that they will be living in safe accommodation? The licensing scheme being proposed is a light touch and proportionate response to a known problem. Just like with finance and other sectors of the economy, effective regulation is a key part of a functioning market, giving confidence to all sides that basic standards are being observed and that enforcement is efficient. There is nothing for good landlords to fear in these proposals. I found advice from Vibert that was published after the 2018 law was introduced and it says: "If you are a landlord and your rented property does not meet these minimum requirements you could be liable to a hefty fine and investigation." An introduction of a licensing scheme, therefore, is, as I said already, a light touch compared to this because it gives landlords time to fix any problems, supported by enforcement officers who will, and as we have heard, engage, explain, encourage and enforce in that order, and not go straight into a hefty fine or a heavy investigation that could lead to criminal prosecution. Officers will work with the landlord to sort out any issues with meeting

minimum standards. To address Deputy Scott's point on random inspection, they are theoretically allowed, as the A.G. (Attorney General) confirmed, but in practice it is not possible because we do not know where the rental dwellings are, otherwise we only know the ones that have had complaints against them and, therefore, the landlords themselves will know it is the tenant that has complained. Officers will support the landlord or agent to identify hazards, suggest remedial work needed to bring the place up to minimum standards, and to remove prescribed hazards in making changes; giving time to do these upgrades, especially in an Island where contractors are busy and difficult to pin down - I have experience with that myself - or seasonal factors affect repairs. The decision to withdraw or refuse a licence will then only be based on the lack of action taken by the landlord to bring about the necessary improvements to meet minimum standards. The lack of action. Landlords are obliged to annually register and pay a minimum of £50 to the Office of the Information Commissioner. This has been confirmed by the Office of the Information Commissioner to me today. This is done under the Data Protection Law of 2018, and as landlords hold sensitive information about tenants. The J.O.I.C. (Jersey Office of the Information Commissioner) works with the J.L.A. to support landlords meeting their obligations to adhere to this law. Have you heard that this has been too bureaucratic for landlords; a drag on productivity? Have landlords left the market because of this requirement? I would risk a guess it has not as we have not heard from landlords that this has been the case. The Minister has spoken about the numbers of people who contact housing and nuisance officers every year and why it is difficult to pursue these cases. Well, what about putting some flesh on the bones of statistics. Here are some case studies that were investigated by officers. The words are directly taken from reports. Case one: "The bathroom sink is cracked and the tenant has concerns the sink will fall to pieces. The shower door is defective and water leaks on to the floor. The fire alarm in the hallway is out of date and requires replacement. There are several areas of disrepair in the roof, guttering and soffit has rotted. There are several cracks to the exterior and interior of the property. The tenant advised the landlord is aware of the issues and they have refused to carry out any remedial works within the property. The tenant has been provided with a report but does not wish us to contact the landlord at this time as they are concerned they will be evicted by the landlord." Case 2: "There is a significant amount of damp and mould throughout the dwelling. A moisture meter was used to measure levels in both bedrooms, living room and utility room. The meter indicated high levels of moisture present. There are signs of water ingress on the ceiling in the main bedroom. The windows throughout the dwelling require servicing to ensure they are made wind and watertight. The rubber seals and handles are defective in both bedrooms. There are gaps around the windows in both bedrooms and kitchen where tape have been placed to stop the draft coming in. Heating in the living room is not working. The tenant did not wish us to make contact with the landlord. The tenant advised these issues have been brought to the landlord's attention on numerous occasions and the justification for no remedial works to be carried out was that the tenant is paying cheap rent." Case 3: "The heating in the bedroom was defective and there was no heating in the second bedroom. The sash cord on the window in the bedroom to the front of the property was defective and the timber frame was not secure, and a draft was coming through. The floor is lifting and uneven. The drainage system is blocked and a foul smell was coming from the kitchen sink. The tenant wanted advice and did not wish us to make contact with the managing agent landlord as they were concerned they would be evicted from the property." I urge States Members to support the Minister's reasonable and proportionate proposition, thank you.

5.1.13 Deputy S.M. Ahier of St. Helier North:

This proposal is almost identical to the one brought to this Assembly by the previous Minister for the Environment, P.33/2021, which was defeated by a slender margin. The major difference between the 2 is that the current amendment is asking for a licence to be permitted for a period of 2 years, whereas the previous Minister had lodged an amendment to the Articles that would have allowed for a licence period of 5 years. One must ask why the length of the licences has been so dramatically reduced. This will be extremely relevant to certain sections of the rental sector. What are the cost

implications to landlords? It has been said that the licence fee is so small that it would have no tangible impact on the rental market, but what of the large social housing providers who will also be required to have licences for each individual unit that they rent out? It has been estimated that Andium will have to pay in the region of £150,000 every 2 years for these licences under the proposed scheme. This will be considerably more than was suggested in P.33. Indeed, within a 5-year period they would have had to have contributed nearly £500,000 to the total cost of the scheme, which under the previous scheme would have been free for the initial 5 years. It seems to me that Andium are being asked to fund most of the revenue raising themselves and yet they are, and I am sure all Members will agree, a truly wonderful contributor to the rental market with many years of experience and provide a thoroughly good service to a large number of Islanders. They should be congratulated for all the hard work which they do and will continue to do in the future. This proposal places the greatest financial burden - and it is a punitive one - on the one sector which is unlikely to ever fail an inspection. I believe that this is unreasonable. It is implied within the report that only 6 employees will be required to carry out the task of inspection and compliance. That seems to me to be a very onerous task and I believe that I can safely predict that this number will increase dramatically in the years to come. How can so few people inspect thousands of properties? To me the figures do not add up, and with any increase in F.T.E.s (full-time equivalent) the overall cost will rise exponentially. The Minister will have the ability to raise fees by Ministerial Order, and on my own assumptions this will be sooner rather than later. What effect will that have on the rental markets? Well, it will certainly be inflationary. Is this necessary when there are already mechanisms in place to deal with the few errant landlords? It must be noted that since the introduction of the extra 3 per cent stamp duty on the purchase of properties to rent, the number of such properties sold has decreased dramatically. We must be cautious when bringing forward proposals that may adversely affect an already stagnant housing market. We must recognise the important contribution that landlords make to the rental market, and we understand their concerns about the many changes that are being brought forward to the sector.

[15:45]

Once again we are overseeing the introduction of more bureaucracy, more red tape, more regulation, leading to excessive administrative burdens. Is this necessary? In 2021 I voted against P.33, along with a number of current Ministers, and I will find it very difficult not to do so again today.

5.1.14 Deputy S.Y. Mézec:

I have lost count of how many iterations of a licensing scheme we have either debated in this Assembly or at least explored outside of the Assembly before deciding whether to bring to it or not. We have looked at iterations involving an annual licence, 2-year licence, 5-year licence; we have looked at versions with no fees whatsoever, fees that are flat across the board, and even a graded structure of fees. But what is in this proposition today is essentially the same in its structure as to every iteration that has come forward before. It is about changing the rules for renting out property now so that in order to rent out a property a landlord must have a licence for that property that confirms that it meets all of the minimum health and safety standards which are already in law, and that is it. Nothing has substantially changed in that time; the structure of what is proposed is the same, the evidence in its support the same, and the arguments on both sides are the same. Nothing whatsoever materially has changed in those 4 years. The only change that has occurred in that time is a change to the political makeup of this Chamber and, speaking frankly, that is the only thing upon which I pin my hopes on today for this proposition. Whether you are in favour of this or not is ultimately a political call for each Member to make, and we can argue over it as much as we like but we are simply repeating exercises that have happened before. It is a political call between whether you accept the political position espoused by Deputy Bailhache in support of personal liberty; that is, the personal liberty to be able to rent out unsafe homes to people who themselves do not have much personal liberty because they do not have the same agency as those with more money than

them. Or whether you hold the political position that it is right that Government steps in from time to time to mitigate the worst excesses that can sometimes proliferate in a totally unregulated free market. The case for this is so well made on so many other levels. We have heard the examples before from ...

Deputy P.M. Bailhache:

May interrupt the ...

The Bailiff:

Well, only if he will give way.

Deputy S.Y. Mézec:

Yes, of course.

Deputy P.M. Bailhache:

Well, I am grateful to the Deputy for giving way because he, I am sure inadvertently, misled the Assembly just now in suggesting that my position was that it was a liberty for landlords to rent out unsafe accommodation, and that was my position. I made it absolutely clear that that was not my position and that all Members of the Assembly, I am quite sure, wish to see safe accommodation occupied by tenants.

Deputy S.Y. Mézec:

It is lovely that some may use those words but I believe that actions count louder than words, and if he is not prepared to vote for an enforcement regime that puts those words into reality then I am afraid I cannot take them that seriously. That is why I make the point, he had a philosophical position against what he might term as Government overreach because of his political persuasion. It is a persuasion he is entitled to have but it is not one that I have or will ever defend. That approach of a licensing regime is one that exists in all sorts of other ventures and considered completely uncontroversial. We have heard the examples of dog licensing, gun licensing, licensing for restaurants. We never hear the argument that we do not need to have licensing to confirm the hygienic conditions in restaurants: "We do not need that regime; we just need more restaurants." We never hear that argument because of course it is so absurd. The other licensing regime exists that I am surprised has not been mentioned, you are not allowed to turn on your television without a licence for it, and that licence costs you £159 a year and if you get anything wrong in that process it does not affect anyone's health. So any argument that what is proposed in this proposition is somehow too cumbersome, too burdensome, too bureaucratic I simply cannot accept when in our society we have a regime that stops you from even watching your television without a licence for it. If you are in the business of renting out properties in a market, providing a service upon which so many people depend on for their livelihood and for their health and safety, to ask them to pay a fee which will in actual fact amount to less than £30 a year because it will be a tax-deductible business expense so the real cost will be less than £30 a year, can surely not be too much to ask. The evidence of the problem most certainly does exist. I know from my time as Minister for Housing and working with the brilliant team in the Environmental Health Department, of all of the cases that they have dealt with, I have known that as a constituency representative more widely as well. Citizens Advice Bureau know all about it, Caritas know all about it, the Salvation Army know all about the problem. What is proposed here to address that, compared to what we impose on other sectors, is absolutely nothing extraordinary. It is to ask for a form to be filled in once every 2 years, an extremely modest licensing fee paid for that, and if you are already compliant with all of the laws that you should be, that is the extent of the burden upon which will be placed on you. The only cases that have anything to be concerned about by this are those who may be caught out by a licensing scheme and be discovered to not be in compliance with those other laws. In fact, for many of those people that will not be a bad thing, it will be a good thing, because in my experience the vast majority of landlords are decent

and responsible and want to comply with the law, and some of them - despite all the best will in the world - may occasionally just miss something or make a mistake. What will this licensing regime do? It will help them identify where there are problems and they will get free advice from the Environmental Health Department about how to fix it. That is the sort of thing that in the long run could save them a lot of money if something went wrong and somebody ended up being hurt by it. They will get free advice and support and help through a very tolerant approach that will be adopted by Environmental Health; something to surely welcome. The only people who would have anything to fear from it are those who, for reasons I simply cannot fathom, would object to complying with anything whatsoever. Those are people who I would guess are in an extremely small minority but whose views I do not think we should be pandering in any instance here. We have of course been lobbied very heavily on this and arguments have been made against the proposition, which are identical to arguments which came up in previous times. But there was one that Deputy Howell mentioned in her speech that I cannot leave unanswered, and it is the argument that there has been no proper consultation on this. This has been consulted to death, quite frankly. There have been Scrutiny reviews on it, the previous Minister for the Environment held a wide-ranging consultation on it, I know because I was in the room for much of it. I saw those events at the Town Hall where the proposals were presented, and those proposals were then changed when they came to the Assembly because that consultation had an impact, and I know that the current Minister for the Environment has himself made efforts to speak to those with an interest in these regulations to hear their views. The point is that some people just disagree. They do not like the scheme and they do not want it, but they should not be saying that there has been no proper consultation because there has been far more consultation on this than we engaged with on frankly other matters that create greater burdens on others. She also made a comment about us being at risk of alienating people on whom we rely to provide that housing. In my personal experience, and I will freely admit that this is simply anecdote, but most of the landlords who I speak to - I have friends, I have family members, I have party members who are landlords who I speak to frequently - the vast majority of those I find are perfectly in favour of this, they do not think it is overly bureaucratic, they do not think it is unreasonable, especially considering the requirements that every other business venture would have to abide by. But I tell who is feeling alienated; it is the tenants. It is the people who do not feel that their voice is heard and who are often too scared to speak out because of the consequences they are worried they will face. Why are we not concerned about those people being alienated? I listened and I was so amused when Deputy Bailhache spoke about his investigations into finding out the extent of revenge evictions in Jersey, and he mentioned how he had spoken to somebody in the courts to find out what records they had on this and he was surprised to find that there were no records in the Petty Debts Court of revenge evictions. It is interesting that he went solely to the court to ask that, he did not go to Citizens Advice, he did not go to Caritas, he did not go to Salvation Army who themselves could have given him plenty of evidence. But the reason why the Petty Debts Court would not have any cases of revenge evictions there is because revenge evictions are perfectly legal in Jersey. They are allowed under the Residential Tenancy Law where a periodic tenancy can be ended with 3 months' notice at any time for any reason and there are no grounds of appeal for it. It can simply be done on the whim of a landlord with no reason provided. Many of the times they may do that may well be perfectly reasonable and justified but if they are not reasonable or justified that makes no difference whatsoever in the application of that clause in the Residential Tenancy Law. That is why they do not end up in court, because there is no case to be made in court, there is nothing the court can do to protect them. That is why some people will ask Environmental Health officers - and I have had this myself as a constituency representative when I have liaised with Environmental Health about cases - where they are very worried about complaints being formally made in case they get that 3 months' notice issued because they have just stood up for themselves a little bit too much. They are perfectly allowable under the current system. The Constable of St. Brelade referred to these regulations as being divisive. I would wager that out there in the real world they are probably not. Again, this is purely guesswork but this is the kind of thing that if I were not so busy with every other

element in my job I would quite like to have a referendum on because I think the result would be so conclusive in favour of these from a wide cross-section of society, including those good landlords who do not want themselves to receive a bad name by the minority who do not comply, and wider society and tenants in particular who would want to see this through. It is only divisive for a relatively small part of our population; most of whom when you read the arguments that are put to us are littered with misunderstandings about what is actually being proposed and what powers the Government already has on this. When they have attempted to propose the alternative of a register, have continued to make that proposition despite a definitive - and in my view unbeatable - case against it being made in that a register provides all of the bureaucracy with none of the benefits. Doing nothing is a cheaper option of getting the same result than a registration scheme because it does not stop a single unsafe property from being let out. So, as I said earlier in my remarks, I think this is an exercise of repeating ourselves and doing what the previous Assembly did on multiple occasions. The only thing I pin my hopes on now is that the political makeup of this Chamber is different to the last time this was debated, and I hope that Members will see, given the result in that election for the Alliance Party which had most closely been associated to the opposition to this scheme and the gutting that they got in that election, that this I think is a proposal that has a perfectly decent mandate from the public and I hope those Members who replaced those previous out-of-touch Members will vote in support of it this time, including those who may not have done so last time.

[16:00]

5.1.15 Connétable M. Labey of Grouville:

I am the first to rail against bad bureaucracy. I will tell you what bad bureaucracy is to me. I got bitten by a dog, not in a Swiss hotel lobby but out on delivery in Grouville. I spent 7.5 hours in A. and E. (Accident & Emergency) and I spent precisely one minute with a medical professional who gave me a tetanus injection. That poor individual then spent the next 17 minutes filling in forms to say that they had given me a tetanus injection. That is bad bureaucracy. I know teachers every day that have to go home and fill in endless forms about the day they have just spent and the day they are about to work. That is bad bureaucracy. I know of childminders, probably 10 or so a year, that have been leaving their industry - a very dedicated industry - because of bureaucracy. Other bad systems like the J.F.S.C. (Jersey Financial Services Commission) annual company confirmation form which not even they can fill in. That is bad systems; that is bad bureaucracy. This at least - and I commend the Minister for bringing this forward - is going to pay for itself. I beg to ask his forgiveness for that. I do not think any good landlord, and the majority are, should have any fears about this new scheme because they are already complying with it and they should have no doubts about that at all. But I will say that I will be looking in the future to any more bureaucracy coming forward, as I have mentioned to the Minister before, to make sure that this industry is not overlaid with said.

5.1.16 Deputy I.J. Gorst:

Well, it has certainly been an interesting debate so far today. But I want to return to the Chair of the Scrutiny Panel's early intervention. He did not use his full allotted time, which is unlimited as the main respondent to the Minister's proposal, and the reason I want to return to that is because he spoke a little of the need firstly for the existing regulation, which sets out quite clearly the obligations of landlords - and again Deputy Scott picked up on some of this - and he reminded the Assembly of the then Minister for Housing I think it was that brought that forward. Two things were held in tension at that point; one was that it would on its own improve standards across the board, and the other was that there may need to be a further system introduced to ensure that there was compliance. The reality is I think that previous Governments and previous Assemblies have struggled with that further system which would ensure compliance. So, for me this has been really quite a difficult debate because I am moving towards voting with some colleagues who have said things for whom I disagree so intently. That is that we should not find ourselves divided, because I do not associate myself with comments which largely - and are taking on in the public domain and I think one of the reasons why

we have seen so much contact from members of the public - is this idea that landlords are somehow monsters, and they are the bad in society. I am not saying anyone said it today, but I am saying that this is a divisive narrative which has been maybe not spoken quite in those terms but certainly there has been this intimation. I know that there are landlords who have approached me who certainly feel that. That for me is strange, and the reason I say that is because our housing market in Jersey has always relied on a healthy private rental sector and government policy has acknowledged that, yes, there would be the social rented sector and Government would do that but there would always be a healthy and important private rental sector and yet we have seen a narrative of division over the last number of years. I do not accept that narrative. I accept for my part, and perhaps I have to be careful because I am one, that our housing economy requires a strong supply of private rental accommodation, but it is important that that private rented accommodation is of a high standard. Again, for my part, landlords that I speak to and those that I have been lobbied by I believe do meet that high standard. They know what the regulatory requirement is and they meet that high standard. But there are inevitably unfortunately those that do not and, therefore, the Minister in bringing forward this proposal is seeking to ensure that there are appropriate mechanisms in place to ensure that those that do not meet those regulatory standards there is a mechanism to ... I might use the word encourage them to make those improvements and those changes. I use the word "encouragement" because I do recognise that sometimes across Government some of our colleagues can become at times overzealous and at times officious. I do not believe for a minute that they will with the current Minister in post, that is certainly not how I have seen him operate and fulfil his functions, rather the reverse. When these proposals were first proposed one of the objections I very much had was that there was going to be a requirement to employ at least 5 or 6 more individuals in the department, and some Members have mentioned that in their comments today. That of course is not the case because those officials are, for right or wrong, already employed in the department and already doing other important compliance work and, therefore, they can simply broaden out and do this licensing compliance work as well. But this Assembly and this Minister and future Ministers will need to continually review and ensure that when they are delegating their functions under this law those delegations are appropriate, and that they are fully briefed and appraised of the state of play in the market with regards to licences and with regards to compliance of the regulations. The reason that I go back to distancing myself from some of the comments that others have made is that I do not, from a political philosophy point of view, as others have said, believe that regulation and licensing is a general good and that we can point to lots of other areas where Government is involved and government bureaucracy is of a general good and has improved things. I am sure there are areas where it has but there are equally other areas where if we undertook a review of improvements in those areas that regulation, licensing and government bureaucracy has brought I think we would find that there could be some lightening of that bureaucratic load and I think we would find that there could be some rolling back of that bureaucratic load as well. Government involvement is not a general good and a general cure for all of the difficulties which our community faces; but it does have a place and I go back again to what the chair of the Scrutiny Panel said, and that is that we wish to ensure that all housing stock right across our economy is of an appropriate and high standard. I also come back to this general point about behaviour of landlords and tenants, and I know that some have made comments about mould, about damp, and we had that terrible situation in the U.K. where a young child lost their life. But anyone that knows anything about the housing market knows that there can be damp and mould of that sort of magnitude which requires landlords' intervention. But we also heard quite rightly, Deputy Howell spoke to us, that there can be internal general dampness which can come from the way that some tenants live. We have got to stop pretending that there is a great divide and that the answer to all of these situations is just action in one particular direction, because it is not. So, for my part, the question I think is the right question to ask is: can this licensing scheme help to ensure compliance with the regulations which are currently in place, and can it carefully and proportionately work with landlords by issuing licences straight away in the first instance with registering or completing the form, paying the fee, and then working through a system?

What we have before us today I think on balance, taking into account everything that Members have said and the things that the Minister has said, I think that on balance it can. I know that some Members are thinking on balance they are not sure if it can, and at one point today I thought I was going to be signing up to become a Liberal Conservative. I am being told I should. Clear blue water at last. But when I look at what is before us I go down on the side that I think that there can be positives and there can be benefits in ensuring compliance through this licensing system. But what I would say to Members who may be wobbling over to the other side is listen to and remind ourselves to what the Chair of the Scrutiny Panel said. He said that if the principles are accepted today, which is that we need a different and an enhanced mechanism to ensure compliance, if those principles are accepted he and his panel will take it away and do a further piece of work, which I have got no doubt will ... I am hesitating to look at those frowning at me in the gallery. Which I have got no doubt will re-engage with some of those concerns that landlords have, and some of the concerns that Members of this Assembly have, to ensure that the practical application of the Articles can be administered in a proportionate way. Therefore, I do think that Members - whichever side they are slightly wobbling on still - can support these principles and allow that additional piece of work to be done with the Minister, who I know wants a system which ultimately will work and will ultimately see standards where they are below standard, and that is to my mind in a minority of cases where it is below standard, he can ensure that they reach that standard.

[16:15]

5.1.17 Deputy G.P. Southern:

What a joyful thing it is to have the support of Deputy Gorst in finally coming to some sort of slightly wobbly but fairly solid grounds for proceeding with these proposals. My question briefly is: should we engage with a regulation and licence system in order to regulate what is currently a free market in the private sector rental? For me the answer is obvious; the answer is, yes, of course we should. Why? I remind us that the contribution of the Minister for Health and Social Services was very significant in this. The reason why is I believe our duty of care extends beyond Andium Homes to the private market. Despite the temptation to talk about light regulation - these regulations must be light - one of the things that goes wrong with Jersey in terms of its politics is that it may set up principles and policies but often ignores enforcement. Without some form of enforcement - and this is very light - we often end up going nowhere. I think Members will sleep better in their beds tonight if they support this proposition.

5.1.18 Deputy T.A. Coles:

Just a short one from me this afternoon. It just so happens that I was speaking to a property manager, not a landlord themselves but someone who manages properties on behalf of landlords, and it was just in a casual conversation as we all know as local politicians we do not really get time off from our jobs. If somebody sees you and recognises you they want to talk to you. They are talking to me about this landlord licensing and how they thought it was a good thing because sometimes they have pushback from the property owners of properties that they manage for works that need to be done so they can comply to regulation. So they were very positive in the fact that here was a mechanism that was going to be clearer so they would not necessarily be picked on by the owners of the properties that they manage on their behalf, because they can refer to Environmental Health without being one of the people who may be persecuted as: "Actually, my management agent grassed me up to the Environment Department" or: "My tenant grassed me up" when they know that they have to maintain properties to a decent standard. They were also very supportive of the work being carried out by the Minister for Housing and Communities on the White Paper again, just for clarity so they can do the job that they were employed for. Also, in hearing all the debate over this, this afternoon as well, the question of are we arguing over the name of what it is. Is it a licence? Is it registration? Is the £30 fee too much because they are worried about having to pass that on when a one-bedroom flat is going to be charged at £1,400 a month. I struggle, especially when I consider my wife has to register with

Health to do the job that she does, but she is not regulated. Anybody can advertise themselves doing the job she does because it is not protected titles, but there is requirements to people's health that she does it properly. So when we talk about - as the Minister for Health and Social Services has said - there are health implications that come from properties which are not being well managed, so these things need to be pointed out to people. I do not believe anybody goes into becoming a landlord with ill-intentions. Sometimes things happen, things slip by; sometimes it is just a lack of knowledge. This light touch that is being proposed by the Minister is very encouraging to hear because sometimes people do not need to be hit in hard saying: "You have done this wrong and you are going to face the consequences." When it is case of: "Sorry, you really need to improve this." This is why in health and safety you have the R.A.G. (red, amber, green), green is okay, amber needs work doing to it, red must be done straight away. This principle is very good for the Environment Department to be administering to some of these people who might simply not know that there is an issue. Do not get me wrong, this can also then involve the landlord referring themselves to the Environment Department, so if their tenant is not doing what they need to do, opening windows to vent things out, they can ask the Environment Department to come along, tell them: "This is a problem that we are having, please can you tell our tenant that we are not blaming them but this is something that needs to be done within their property to make sure that it helps meet their standards as well." I see there are many, many bonuses to this and if it only costs £30 a year that is negligible, and it covers the staffs' time. We are always talking about cost-benefit realisation in our roles in Government; when we look at the data produced in the 2021 census about the number of potential rented dwellings out there between social, qualified and non-qualified accommodation you are looking at about 18,000 properties. Now, if you have 6 members of staff that need to carry out certain checks or random checks and be able to utilise the regulation that already exists, it is like knocking on every other door asking: "Sorry, is this vented? Also, who is your landlord?" By gathering this data, straight away they know. It is quicker, it is more efficient and it is a better use of resources that we have. So, I am sorry, I just do not see a downside for this. There are so many benefits that outweigh any negligible complaints that we have seen so far, so I very much support this proposition.

5.1.19 Deputy D. Warr:

I just wanted to put a slightly sort of moral tale into this discussion today. I want to talk about the commodification of housing and the impact of that way of thinking. My background is in coffee; the world's second most traded commodity after oil. Once upon a time only those businesses that trade in coffee created the market. Post the financial crash of 2008 coffee and other commodities started to be traded like stocks and shares. Basic foodstuffs are now traded as investment opportunities and we wonder why we have the infamous heating or eating issue. The provision of a home is always about the person. It cannot and should never be commodified. So, how does this relate to our own housing issues and our attitude to investing in housing? There have always been investors in housing. I would suggest the vast majority of landlords in today's Jersey market are long term investors. They are in it for the long term. It is not in their interest to see tenants come and go, so as a result they mostly look after those for whom they provide a home. Times have changed. Jersey's housing market up until 2023 has been a very lucrative one for some. Between 2011 and 2021 there was a 38 per cent increase in the number of qualified rented properties. That was just under 3 times greater than the increase in home ownership. I do not have an issue with individuals wanting to invest in something which they see as a good return on capital. I do, however, have an issue with investors who look to sweat their asset to the detriment for whom this asset is their home. Citizens Advice had 2,079 housing-related queries. That is 23 per cent of all the enquiries they received in the last 12 months. We have all had an email from Caritas overnight. These are organisations who deal with people with few choices when it comes to a place to live. They are the least likely to complain. As has already been mentioned, I am looking to update the Residential Tenancy Law. In that law I hope to bring in a housing tribunal. That will work alongside the Rental Dwellings (Licensing) Law. This will effectively join up the dots. Both tenants and landlords will at last have a safe space. Security

of tenure is a human right. Having a decent place to live is a human right. I will support my fellow Minister and urge other Members to do so.

The Deputy Bailiff:

I call upon the Minister to reply.

5.1.20 Deputy J. Renouf:

I am going to go through some of the points that were raised by people to try and provide a fairly complete response to the questions that have been raised, and then make some very short concluding remarks. Deputy Bailhache started and made a number of points which I wanted to tackle. He says that most landlords are decent and honourable and he indeed - as many other Members have said - want the bad eggs, if you like, relentlessly pursued and I think that is a universally shared view. This is all about how we do it. The licensing scheme that I have brought forward is intended to make that an efficient and effective process. I think there has been a certain amount of misinformation put out. It was mentioned that these regulations will need 6 people to be employed; as I have said, they are already employed. They are employed because we have a housing and nuisance team. The housing and nuisance team is supposed to deal with lots of different issues to do with housing and the issue we have is that they cannot do that job efficiently and effectively, and I have outlined some of the reasons for that and I may come back to that. I would say as well that it was a slightly disturbing tendency to blame other people for the situation where we are bringing forward these regulations: "It is the tenant's fault for not pursuing complaints. Why do they not complain? Why not have an anonymous phone line?" The problem is not that people do not know where to go. They do know where to go and they do go to people; they come to us and they come to others. The problem is enforcement. So why do we not enforce when we get told about these properties? We have to live in the real world and in the real world we have to deal with people's lives and we have to make flexible and proportionate decisions. It brought to mind an experience of mine from my days on "Newsnight", if I may travel back that far, and the one time that I saw Jeremy Paxman significantly discomfited was when we had a mad idea of getting some unemployed people on to the show instead of politicians. Jeremy Paxman then interviewed them in connection with their predicaments and why they were not taking advantage of laws that could help them and why they were not applying for the full benefits that they could have and so on. It was the one time, as I say, I saw Jeremy kind of quite discomfited because he was used to a world of structure and order in which Ministers have the information to hand, there are laws, there are clearly briefings that people follow. These people were chaotic; they did not have the laws to hand, they did not fully understand their rights and responsibilities and so on. But they were passionate and that threw him a little bit and that was very interesting. I think it reminds me that in the real world we have to deal with complexity, we have to deal with people in difficult circumstances and we have to make proportionate decisions based on those situations. When it comes to enforcing when we get told about properties, we get a call from somebody who says they are living in unsafe accommodation, we have to deal with that very sensitively. If people ask for us as a condition for them telling us more about that situation, if they make a condition of that, that we would not take action then we have to make a difficult decision. Do we say: "No, I am sorry, in that case if you will not give us your name and the address of your property we do not want to hear about it." Put the phone down: "Sorry, we are not interested." Or do we say: "Okay, that is not ideal. Perhaps we can persuade you later but the best thing to do in this situation is to agree. Okay, we understand you are worried about this so we will not contact the landlord but we will come and look at your property and make a report and so on."

[16:30]

I wonder which of those 2 things Members would rather we did. The other sort of red herring that was slightly thrown at us is this idea that the legislation as it is written contains enormous scope for the Minister to act arbitrarily and so on. One of the examples cited, I know the landlords have cited

this, is that there is an element in the order that says that I can impose conditions to licences that I see fit. Yes. That is designed very specifically to enable us to do conditional licences. In other words, it is designed so that we can say: “You have a licence but the licence conditions are not currently being met therefore we need to improve those conditions. Here are the conditions that we put on your licence. You can keep the licence so long as this is done.” It is not a draconian, excessive, arbitrary power, it is a tightly-defined thing, designed to make sure that we have a flexible tool to respond to poor conditions. It means that we can respond without having to say: “Close the property down. Leave the property.” We can say: “Here is a set of conditions that need to be met within a specified timeframe” after discussion with the landlord to make sure that it is reasonable to achieve them in that timeframe. That is what that supposedly excessive clause is there for. It is a red herring. Also was raised the idea that we might have excessive nitpicking things, a small damp patch, steep staircase, that kind of thing. I think that is a misunderstanding, as I hope I made clear, of the way we enforce. We are not there to do that sort of thing; no officers are there to do that sort of thing. There is no point in doing that sort of thing because it means we do not tackle the real problem. The real problem is what we want to tackle. I have made that very clear to officers. But I do not have to because they are not in the business of doing that sort of thing. They have a heavy workload. They are not going to waste their time on that sort of thing. It is pointless. What we do is help landlords to achieve compliance. That is the meaning of the techniques that I said and I wrote them down to repeat them. Engage, explain, encourage, and enforce. That is the meaning of doing it that way. The question was raised about the draft application form and all the terrible things that it might involve. There is no draft application form at the moment. That would mean that we would have exceeded our authority. We do not have a licensing scheme yet. Were we to spend time on something that may not be enacted the Assembly might well take a view on that. So, no, it does not exist. But the regulations give pretty clear guidance about what is going to be required in it. It is pretty basic information. It is to do with who owns or looks after the property, what the address is, and so on. It is not a long list of other things. It is there to ensure we can enforce against the law, that is all. So revenge eviction, let us deal with this question of revenge eviction. Several people have talked about this. Indeed, revenge eviction is not allowed or would not be allowed if it were to be proven that there was something like that. But the point about eviction is that, as several Members have said, it is entirely lawful to evict people simply by not renewing their tenancy. That is what people fear. Now it might be in revenge, it might not, it is irrelevant what it is called. The fact is that the power exists, tenants know it exists, and they are fearful of its use in that context. So I think we do need a bespoke law. In fact I find it rather odd that this is one of the few cases I have seen where politicians are arguing that they would rather we had a difficult-to-enforce law. They would rather that there were a few obstacles in the way that we try to work around rather than have a simple, bespoke law that addresses the issue directly. This is about doing the job well, because that is what tenants deserve. Deputy Luce, I would like to say thank you to him for notifying me in advance that he would be calling this in, and of course I respect the right of Scrutiny to examine the regulations in detail, and in fact I welcome the chance to explain the proposals and deal with the detailed issues that may arise. Deputy Scott mentioned lodging houses. Lodging houses are covered by separate legislation. I am not a fan of regulation for its own sake and the idea that we would impose a new set of regulations on licensing on lodging houses, in addition to the existing set, does not strike me as sensible. So they are excluded. So the question of a register versus a licence. Deputy Tadier, I think, made this point well. A register is simply a list. You do not have any conditions attached to a register, you simply fill it in. It is like when you go to school, you fill in the register. The register is there, you do not do anything with it, it is simply a record. That gets us, as I said in my speech, halfway there. It does not get us to the flexible enforcement tool that we need. Deputy Alex Curtis made a plea for the processes involved to be as simple as we possibly can. I would second that. That has been my intention throughout this, it is to try to make it as light-touch as possible. I do not believe in regulation for the sake of it. I join Deputy Gorst in saying that. I join fellow Ministers in saying that. We need it to be proportionate. I have come to the view that this is the best way of enforcing

the law that we have. Deputy Andrews raised the issue of whether we could not gather together the data that we need from other sources. As I say, data scraping from lots of other sources, it seems to me to be an odd way to go about things to say that. If you tried really hard to get information from lots of different sources, overcame data protection issues, which probably would be insurmountable, if you jump through lots of hoops, bound something through the Control of Housing and Work Law, but it has not been updated; never mind, maybe we will find a workaround for that somewhere. We could go through all those hoops, all those difficult things, to try to achieve something that can be achieved by the very simple expedience of having a licensing system, which requires one form to be filled in every 2 years with some very basic information. Constable Jackson referred to Andium. Yes, Andium is included. He suggested that maybe it should not. I said earlier that I believe the Government should regulate itself just as rigorously as the private sector. I stand by that principle. We cannot give exclusions to our own organisations. It would be totally unfair to the private sector that would have to meet these standards and be subject to a form of regulation that was not applied to our own organisations. It would also be very difficult to exclude Andium and we would have to then consider excluding other social housing providers. I think I have met with all the social housing providers, I have certainly met with Andium and with one other. Maybe there was one that did not come. But they understand this. I would not say anybody is delighted at the thought that they have to pay £30 a year, but they accept the reasons for it. I would say that it is tempting to argue that Andium are a good landlord, we know they are a good landlord, we know they try very hard, but I cannot guarantee that every Andium property is going to be safe under these rules. So I think it is fair that they be included. Deputy Howell asked what will happen if officers are too officious. What happens if there is a regulatory failure? What happens if there is an unfair verdict against a landlord, for example? One of the changes I made to the scheme, at the request of the Jersey Landlords Association who raised this issue, they raised the point that, under the previous schemes, the only appeal possible against a decision by an officer to remove a licence was judicial review. It was to go to the full court, which is an expensive and onerous step. So I have introduced a different appeal route, which comes to the Minister. That means that the first port of call can be an appeal to the Minister. In the future, as the Minister for Housing and Communities says, depending on where we get to with future legislation, maybe that rule could be amended and it could go to a housing tribunal. That is for the future, it depends on where we get to with that legislation. Of course there is also the Complaints Board as well. None of that removes the final right of appeal, which remains to the courts through judicial review. So there are mechanisms to hold officers to account. I would take very strong issue, I am afraid, with Deputy Howell's comment that no proper consultation has been had with landlords. I am afraid that is wrong. I have had several meetings, many meetings, with the J.L.A. I held a public meeting, somewhat notoriously, and I have listened to, I have had arguments, I have spoken on the phone to the Landlords Association, I have answered email questions from the Landlords Association. I struggle to see that I could have done more in terms of engaging with the Landlords Association. As Deputy Mézec said, there has indeed been a long history of consultation. I have here the consultation that accompanied the previous attempt to get this through the Assembly. That includes all the public consultation that was undertaken. Deputy Howell also talked about a section of our community as making it known that they do not like this and they feel demonised. We are not here to demonise landlords and the key determinant of that is we are not going to be inspecting every property. We do not need to inspect every property. We do not want to inspect every property. For most landlords, the engagement with these regulations will be filling in the form and paying the fee. The purpose of these regulations is to give us the tools to respond flexibly and efficiently in a targeted manner. But we do need that licensing system in order to have the ability to focus, to encourage people to come forward so that we can focus inspections where they are needed. Deputy Ahier mentioned that a previous scheme had come down from 5 years to 2 years. As Deputy Mézec said, there have been lots of versions of this, one year, 2 years, 5 years. My view was 2 years, and not one year, because that feels excessive and that your property is probably unlikely to have deteriorated hugely in the course of a year. It might but we have to be proportional about this. On

the other hand, 5 years, there could be a significant deterioration in a property in 5 years. Therefore, I think it is reasonable to say that is too long. Two years seems to me to strike a reasonable balance. I do not expect everyone will agree with it. But it has not been unthought through. Deputy Ahier also said that the fee should not have been in there and noted that the previous version was free, was marketed as being free. I did look at the debate notes on the previous debate on this when there was that proposition that the licence should be free. There was widespread scepticism in the Assembly that “free” really meant free. There was a general view I think that the Minister was only saying that in order to get it through and once it was through then fees would be introduced. I took the view that I would be honest, upfront, and straightforward about fees. I believe that the cost of this should be borne by landlords, not by the general taxpayer. That is in accordance with our general principle in the Island, widely followed in lots of areas, where user pays. But I wanted to make sure that those fees were defined in some way that was understandable, it was not just a random figure plucked from the air, so I asked officers to calculate the rough cost of the 5 full-time equivalent staff who will be looking at this and that is where the fee was derived from.

[16:45]

I also, as I have said, committed to the fact that I will not raise it by more than inflation and there is a clearly understandable basis on which I have come up with that figure. I cannot tie the hands of future Ministers, no Assembly can, but I am attempting to put as much friction in the system as possible by tying my own hands. Deputy Gorst, I agree, we should not be divided. That is why I have gone out of my way to consult with landlords. We need landlords and we need, in particular, good landlords. Deputy Gorst mentioned the word “encourage” rather than “enforce”. Of course in my scheme of enforcement we have both. Engage, explain, encourage, and enforce, in that order. Of course we would much rather encourage than enforce. Enforce is an absolute last resort. Nobody wants to go down that route. I will make concluding remarks. I have dealt, I hope, with as many points as I could there. As Deputy Gorst pointed out, this is a debate on the principles contained within the proposition. I believe it is really quite a simple issue. Most landlords are renting out perfectly good properties and take pride in doing so. They have nothing whatsoever to fear from this proposition. Indeed, I have been contacted privately by many landlords who are supportive of these proposals. They know that poor-quality properties undercut in price for well-managed properties that they are putting on the market. But we do have a significant, well-evidenced problem with unsafe housing conditions. In general, we are keen to have efficient and effective Government. As I remarked in my earlier comments, we are here asking for all sorts of convoluted measures, scraping data from elsewhere, trying to find ways of inspecting properties when we do not know where they are, anything to avoid an efficient, light-touch system for enforcing the law. *En passant* I will deal with Deputy Scott’s argument that indeed we can already do inspections; we can. The law allows us to but we cannot in practice because we do not know where the rented properties are. We would have to go knocking on doors. We would not know whether we were knocking on a private rented house, an Andium house, other social house, or indeed a homeowner-occupied. We do not have the information. I would say to Members, play the ball in front of you. The criticisms that I have heard have all been about what will happen in the future, the possibilities for this in the end turning into something worse, becoming a bigger monster than it currently is. That seems to suggest to me that people do accept that the proposal, as put forward, is not that excessive. I am committed to this being light-touch regulation. But I do have a legal duty to ensure that we have safe rental dwellings and I am committed to that. This is a proportionate, efficient, effective method of enforcing the rules that already exist. I listened carefully to all the speeches and not one person challenged the idea that licensing will work, as I pointed out in my original speech. No one argues that this will not work. It is only about whether it is proportionate and whether it is excessive and I have made a case to say that it is not out of proportion. So we have an opportunity here to do something for some of the most vulnerable people in our society - not always the most vulnerable people, as Deputy Wilson said - but we have the opportunity to do something with a relatively light touch that will make people’s

lives better in this Island and at a relatively low cost. I do not say no cost, I understand that this imposes a cost on landlords, but it is a very small cost when set against the potential benefits. So I urge Members to support this proposition and I call for the *appel*.

The Deputy Bailiff:

Thank you, Minister. The *appel* has been called for. Members are invited to return to their seats. I ask the Greffier to open the voting. If all Members have had the chance to cast their votes, I ask the Greffier to close the voting. Greffier, were there any remotely-cast votes? Then I can announce that the regulations have, in principle, been adopted. **[Approbation]**

POUR: 34		CONTRE: 10		ABSTAIN: 0
Connétable of St. Helier		Connétable of St. Brelade		
Connétable of St. Lawrence		Connétable of Trinity		
Connétable of St. Peter		Connétable of St. Ouen		
Connétable of St. Martin		Deputy M.R. Le Hegarat		
Connétable of St. John		Deputy S.M. Ahier		
Connétable of St. Clement		Deputy P.M. Bailhache		
Connétable of Grouville		Deputy M.R. Scott		
Connétable of St. Mary		Deputy A. Howell		
Connétable of St. Saviour		Deputy M.R. Ferey		
Deputy G..P. Southern		Deputy B. Ward		
Deputy C.F. Labey				
Deputy M. Tadier				
Deputy S.G. Luce				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I.J. Gorst				
Deputy L.J Farnham				
Deputy S.Y. Mézec				
Deputy T.A. Coles				
Deputy B.B.S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy T.J.A. Binet				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy K.M. Wilson				
Deputy L.K.F Stephenson				
Deputy M.B. Andrews				

The Deputy Bailiff:

Deputy Luce, your panel wishes to scrutinise this matter?

Deputy S.G. Luce (Chair, Environment, Housing and Infrastructure Scrutiny Panel):

Yes. I believe the date would be 7th November but we will do everything we can to get to it before that date.

The Deputy Bailiff:

Yes.

Deputy J. Renouf:

May I make a small comment in relation to that?

The Deputy Bailiff:

Yes, you may.

Deputy J. Renouf:

Because of that, I do want to just make a clarification in terms of dates that apply. The regulations suggest that the licensing system will come in on 1st January. Given that we may be debating this in November, with the possibility for amendments and the uncertainty that brings, I think it is unreasonable to try to bring it in January and I would not propose to bring this in before May. May would be the earliest date. I want to say that now so that landlords and indeed tenants understand that there will not be a sudden scramble following a debate in November to try to bring this in. It will be the same gap between the vote and the bringing in as there would have been had we gone through the whole system today.

The Deputy Bailiff:

Thank you, Minister. Members are content that the matter returns on 7th November.

6, Draft Proceeds of Crime (Financial Intelligence - Commencement of Amendment Regulations) (Jersey) Act 202- (P.42/2023)

The Deputy Bailiff:

The next item is the Draft Proceeds of Crime (Financial Intelligence - Commencement of Amendment Regulations), P.42, lodged by the Chief Minister. I ask the Greffier to read the proposition.

The Greffier of the States:

Draft Proceeds of Crime (Financial Intelligence - Commencement of Amendment Regulations) (Jersey) Act 202-. The States make this Act under Regulation 12 of the Proceeds of Crime (Financial Intelligence Amendment) (Jersey) Regulations 2022.

The Deputy Bailiff:

Deputy Millar, you are rapporteur for this.

6.1 Deputy E. Millar (Assistant Chief Minister - rapporteur):

I will begin by assuring Members there will be no parrots, dogs, or jokes in this speech, certainly no parrots. This Act, if adopted, will bring into force the Proceeds of Crime (Financial Intelligence - Amendment) (Jersey) Regulations 2022, which were passed by this Assembly on 31st March 2022. For the benefit of Members who were not part of that Assembly, I will give a little background. As I have already mentioned earlier today, various preparations are continuing for the upcoming MONEYVAL assessment. A key part of those preparations involves improving the structure and

governance of the F.I.U. (Financial Intelligence Unit) in order to satisfy both the technical requirements of the F.A.T.F. standards, the 40 recommendations, and the effectiveness assessment known as the 11 immediate outcomes. To meet those standards, the F.I.U. is required to be an organisation in Jersey, which is responsible for the receipt, analysis, and dissemination of financial intelligence for the purpose of detecting and preventing financial crime. In Jersey's last MONEYVAL report in 2015, MONEYVAL raised concerns about the operational independence of the F.I.U. These concerns centred around the fact that the F.I.U. is a subunit of the Joint Financial Crime Unit, which is itself a part of the States of Jersey Police Force. In 2016, the Joint Financial Crime Unit was split into 2 defined areas of work to appropriately firewall the Financial Intelligence Unit function from the operational investigation function. In 2019, the F.I.U. underwent an increase in resources, which saw almost all posts formerly held by police officers move to civilian police staff. It was recognised that the need for all posts to be held by sworn police officers was no longer needed for most of its work. However, a detective sergeant remained as the sole police officer based within the F.I.U. The need to retain a police officer within the unit was driven by the requirements of the Proceeds of Crime (Jersey) Law 1999, which requires a police officer to withhold consent to transact financial services business. In June 2021, Jersey conducted a strategic review of its compliance with the F.A.T.F. standards. This review outlined further areas of improvement required to the structure and governance of the F.I.U. to ensure it was compliant with the F.A.T.F. standards. This was despite the incremental changes made since the 2015 assessment. In December 2021, the Government's Financial Crime Political Steering Group, made up of all agencies concerned in financial crime prevention in the Island, recommended that the Minister move forward with lodging an amendment to the Proceeds of Crime (Financial Intelligence) (Jersey) Regulations 2015 to contain provisions, which would seek to address the major areas of improvement required to bring Jersey in line with international standards. This recommendation was accepted and on 31st March 2022 those amendment regulations were passed by the States Assembly under the last Government. The key provisions of those regulations are that they set out clearly the autonomous nature and functions of the F.I.U. The regulations move the oversight, accountability, and reporting chain from the chief of police to the F.I.U. Governance Board. They create a directly-appointed director of the F.I.U. They remove the requirement for warranted officers to be part of the F.I.U. in order to exercise its functions. They remove the requirement for the Attorney General to give consent to share financial intelligence. In order to complete the current stage of the process of bringing the F.I.U. further into line with international standards, I am now requesting that the States agree to adopt this Appointed Day Act to bring the 2022 regulations into force.

The Deputy Bailiff:

Thank you, Minister. Is the draft Act seconded? [**Seconded**] Does any Member wish to speak on the draft Act? Those Members in favour please kindly show. Thank you. The Act is adopted.

7. States of Jersey Development Company Limited: reappointment of a Non-Executive Director (P.43/2023)

The Deputy Bailiff:

The next item is the States of Jersey Development Company Limited: reappointment of a Non-Executive Director, lodged by the Minister for Treasury and Resources, P.43. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion (a) to reappoint Nicholas Winsor M.B.E. (Member of the Order of the British Empire) as a non-executive director of the States of Jersey Development Company Limited for a further period of up to 3 years in accordance with the Memorandum and Articles of Association to take effect from the delivery to the company of the notice referred to in paragraph (b) below, and (b) to authorise the Greffier of the States for and on

behalf of the States to deliver a notice to the States of Jersey Development Company Limited in accordance with Article 21(b) of the Memorandum and Articles of Association to give effect to such appointments.

7.1 Deputy I.J. Gorst (The Minister for Treasury and Resources):

As Members know, the States of Jersey Development Company was established in 2010. This proposition recommends to the Assembly that one director remain on its board, ensuring continuity of experience and knowledge. Members will be aware that in 2020 the Assembly approved updated Articles of Association of the company. These included the provision that non-executive directors can serve for periods of up to 3 years rather than fixed terms of 3 years to facilitate effective succession planning, and I am proposing that the Assembly approve the reappointment of Nick Winsor for a second term of up to 3 years.

[17:00]

Members can see from the proposition that Mr. Winsor comes highly recommended. He has good experience in U.K. corporate governance. He has good experience in the world of financing and banking and he has proved himself to be a valuable member of the board.

The Deputy Bailiff:

Thank you, Minister. Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition?

7.1.1 Deputy L.V. Feltham:

Firstly, I would like to say that I make no comment as to the person that we would be appointing today. What I would like to say is that the Jersey Development Company and who it is there to serve is something that comes up quite often as a matter of discussion within this Chamber. I did find it interesting that the report does not seek to give us any confidence as to the performance of the structure of the board itself and also how the Minister is assured that his nominee does represent the interests of both the Minister and the general public. So, I stand today, not in opposition of this particular proposition, but to put the Minister on notice that I will want to seek some further clarification about whether this structure of the board is working in the best interests of the general public. I note that this proposition would see the appointment being for up to 3 years. I would seek to get some further clarification and potentially bring a proposition if required and if we can see that it would be in the best interests for the board to have a States Member, an elected Member, to represent the public interests if we need to do that. But I would like to seek further evidence from the Minister in due course about whether the Islanders' best interests are indeed being served by the current makeup of the board.

7.1.2 Deputy M. Tadier:

The first question I have regards the financial and manpower implications because it says there are no financial or manpower implications for the States arising from this. I know the argument may be made that the remuneration has been allocated, therefore the States do not need to pay any more money for that. But presumably, if we are to have a choice today, and in the hypothetical situation that this proposition were rejected, then any remuneration that the non-executive director would be receiving obviously would not get paid to him and therefore there would be a financial and manpower implication somewhere along the line at least for the States of Jersey Development Company. They would have money that they did not have before and it may well be that the States would not need to give them so much money in the future if indeed we ever did need to give them money. So there is an indirect hypothetical financial and manpower implication there, even if it is not a direct one for the States Assembly. I think it would be helpful with that in mind for the Minister for Treasury and Resources to remind us exactly how much this individual will be getting paid, how much he got paid last year, including any bonuses, and what the bonuses were for, if he did get them. Now, similarly

to the comments from Deputy Feltham, my comments are not about the individual, I am sure; looking at the black and white, he has some very good credentials there. But I am in a difficult position here because I fundamentally have grave concerns about the *raison d'être* of the States of Jersey Development Company and the way it is currently operating, not just the composition of the board, and so I do not know how I can vote to appoint somebody to an entity that I do not have confidence in. So I am unlikely to support this proposition today and I think it is important that I put on record that I would not want the individual in question, whom I do not know, and whom I am therefore indifferent to as such, to take that as any personal slight. It is simply to say that I do not have confidence in the States of Jersey Development Company as an entity in the current way it is being run.

7.1.3 The Connétable of St. Brelade:

Would the Minister for Treasury and Resources, in summing up, just outline whether he agrees that non-executive directors of S.o.J.D.C. should be receiving bonuses if the company is making a loss.

7.1.4 Deputy P.M. Bailhache:

A number of Members might share the views of Deputy Tadier in relation to the performance of the States of Jersey Development Company. But that seems to me to have absolutely nothing whatever to do with the proposition, which is before the Assembly today. I feel rather uncomfortable that the proposition is before the Assembly. I thought that there was a resolution of the Assembly, which had agreed that we would not, with one or 2 exceptions, be debating in public the suitability of individuals, distinguished individuals in this case, for appointment to particular boards of companies. I wonder if the Minister would undertake to take that thought away with him and to give some consideration as to whether the Articles of Association of Jersey Development Company might be changed so as to make it possible for directors of the company to be appointed by the Minister himself. That does not take away the right of Members of this Assembly to question the functions of the Jersey Development Company, but that is an entirely different issue and I hope that the Minister might be able to respond.

7.1.5 The Connétable of St. Helier:

You have already given a certain amount of latitude to speakers on this, as has been observed by the previous speaker, and I do want to be placed on the record as saying that I have confidence in the Jersey Development Company and therefore I do not agree with Deputy Tadier at all. If I might very briefly allude to the fact, and I have said this before in the Assembly, that the Jersey College for Girls building stood dilapidated and unused for 15 years before this group got things done there and had it turned into housing of all sorts. Meanwhile, a surface car park at the Esplanade Quarter has been turned into what I believe is an extremely well-made international finance centre with copious amounts of open space, a new civic square, and possibly the provision on the rest of the site of important civic facilities such as a National Gallery for Jersey. So I have confidence in what they are doing and I am fully backing this latest reappointment of a director the group.

The Deputy Bailiff:

Yes, we are perhaps slightly running away with the content of the proposition.

7.1.6 Deputy S.Y. Mézec:

Let us see how it goes. I simply wanted to say on record that the Constable of St. Helier certainly does not speak for all of his parishioners in making that totally uncritical view of the role that company has had in our Parish in providing homes, for example, on the waterfront that are of a totally inadequate standard to Jersey's housing needs, for the fact that it does not make much of a profit in any year, and in any event has provided in its entire existence a lower return than Andium Homes manages to provide to the States every single year. It is a broken model and if I can somehow make this relevant to the proposition, I will say that I hope that this particular appointee may be able to

improve the quality of decision-making of that company in future. But the Constable of St. Helier does not speak for all of his parishioners there.

The Deputy Bailiff:

Thank you, Deputy Mézec. I call upon the Minister to reply.

7.1.7 Deputy I.J. Gorst:

Perhaps if I could just start with Deputy Feltham. I understand her intervention and I welcome facilitating that conversation because it is the Waterfront Enterprise Board, then replaced by S.o.J.D.C., has not been universally loved by politicians for all sorts of reasons. A fair and reasonable analysis would be that under the current leadership S.o.J.D.C. has made great improvements from what was there before and provided lots of public benefit. But we remind ourselves they were, unlike Andium, created to make profits to reinvest in infrastructure around St. Helier. What I sense from some of the interventions is that that is being questioned by Members. There is no problem with Members questioning that and I am quite happy to facilitate those conversations around where is the public good in the work that the S.o.J.D.C. do. I sit of course much more on the side of the Constable of St. Helier but equally I do think that S.o.J.D.C. can help the Minister for Housing and Communities in dealing with the affordability issue. But that is not part of this proposition. I have confidence in Mr. Winsor, those Members that know him as an individual know that he is, although no longer living here in Jersey, is passionate about Jersey, contributes to the not-for-profit sector in Jersey, and has moved some of those organisations forward and supported them and unlocked things, which others may not have done for those charities. But he also understands the property market and he understands financing of property, and I have no hesitation in seeking for him to continue for up to a further 3 years. With regard to the point Deputy Bailhache raised; he is right. There was an in-principle decision a number of years ago to remove directors of arm's-length bodies from approval by the States. Between that in-principle decision and the enactment thereof in practice, it will not surprise him to know that Members of the day made some adjustments so that not all of those were removed. But I think he is right because this conversation should not in any way, to my mind, be taken as being critical of the individual because I do not think anyone has been. Perhaps Deputy Tadier was trying to get there but withheld himself. The remuneration for non-executive directors of S.o.J.D.C. is £22,000 a year. As Members know, non-executive directors do not get bonuses. There are bonus schemes in some of the arm's-length organisations and I perhaps have a view on how those schemes are working and whether the benchmarks that are used are appropriate or whether, over time, as sometimes happens, these organisations end up having bonuses, which do not have enough flex in them and really sometimes non-executives can receive bonuses for in effect doing their day job. So we are doing a review of that to make sure that any bonuses really are flexed and really they have gone above and beyond and done more than either the Minister or this Assembly expects of them. Members will know that one of the arm's-length organisations recently did make a loss and bonuses rightly, in my view, were not paid. But it is something which we are continuing to review and we expect restraint in all of these matters. Because the trust of the public and the trust of this Assembly is very important in ensuring that these organisations can carry out the functions for which they were initially created. Having veered off the proposition but on to the comments of Members, I hope that they will support this reappointment.

The Deputy Bailiff:

Thank you, Minister. Is the *appel* called for?

Deputy I.J. Gorst:

If I may, thank you.

The Deputy Bailiff:

The *appel* has been called for. I invite Members to return to their seats and the Greffier to open the voting.

[17:15]

If all Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. Are there any remote votes? I can announce that the proposition has been adopted.

POUR: 35		CONTRE: 2		ABSTAIN: 2
Connétable of St. Helier		Connétable of St. Brelade		Deputy R.E. Binet
Connétable of St. Lawrence		Deputy M. Tadier		Deputy A. Howell
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy G..P. Southern				
Deputy C.F. Labey				
Deputy S.G. Luce				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy C.S. Alves				
Deputy I.J. Gorst				
Deputy L.J Farnham				
Deputy S.Y. Mézec				
Deputy P.M. Bailhache				
Deputy B.B.S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy M.E. Millar				
Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				
Deputy L.K.F Stephenson				
Deputy M.B. Andrews				

8. Whistleblowing - introduction of legislation (P.47/2023)

The Deputy Bailiff:

The next item is Whistleblowing - introduction of legislation, lodged by Deputy Alves. The main responder is the Chief Minister. Deputy Alves, there is an amendment lodged by the Minister for Social Security. Do you accept the amendment?

Deputy C.S. Alves of St. Helier Central:

I do, yes.

The Deputy Bailiff:

Do you wish your proposition to be read as amended?

Deputy C.S. Alves:

Yes please.

The Deputy Bailiff:

Are Members content for the proposition to be read as amended? Thank you very much.

The Greffier of the States:

The States are asked to decide whether they are of opinion to agree that whistleblowing legislation should be introduced, and to request the Minister for Social Security, in consultation with the Council of Ministers, to bring forward the necessary legislation for approval by the Assembly prior to the end of December 2024.

8.1 Deputy C.S. Alves:

The protection of whistleblowers is crucial to the health of our democracy and the well-being of our society. Currently, whistleblowers in our Island face significant risks and barriers when attempting to expose wrongdoings. Over the years, we have seen a number of reports of whistleblowers in our local media who have felt they had no choice but to do it through the media anonymously due to fear of reprisal. Whistleblowers play a vital role in the fight for a fairer world, exposing corruption, wrongdoing, and abuses of power that would otherwise remain hidden from public scrutiny. They provide an early warning system, alerting us to potential dangers that could harm our economy, public health, and the trust citizens place in our organisations. They shine a light on misconduct within government bodies, corporations, and institutes, holding those responsible accountable and ensuring that the truth prevails. They are the eyes and ears of our society and by safeguarding their rights we enhance our capacity to detect and prevent wrongdoing. However, it is a sad reality that these individuals often face severe repercussions for their actions. Critics may argue that whistleblower protection would impede the efficient functioning of organisations. However, I firmly believe that these concerns can be addressed through effective implementation. A balance must be struck that enables genuine whistleblowing while also protecting against malicious intent. Other countries have successfully implemented measures and we can learn from their experiences and best practices. The United Kingdom first introduced legislation specifically focused on whistleblower protection with the enactment of the Public Interest Disclosure Act 1998. This law came into force on 2nd July 1999. It was designed to provide legal protection to individuals who disclosed information about wrongdoing in the workplace, ensuring they are safeguarded from unfair treatment or dismissal as a result of their disclosures. The law marked a significant step towards recognising and protecting the rights of whistleblowers in the U.K. So it is high time that we too, almost 25 years later, acknowledge the invaluable contributions of whistleblowers and ask that comprehensive legislation is brought forward to safeguard their rights. In summary, whistleblower legislation is important because it facilitates the exposure of wrongdoing, protects the public interest, promotes transparency and accountability, enables prevention and early detection, fosters ethical workplace environments, and

deters retaliation. By providing legal protection for whistleblowers, we can ensure a fair and just environment where truth and integrity are upheld in our society. So I hope that Members will support this proposition and I thank the Minister for Social Security and the Council of Ministers for their supportive amendment. I make the proposition.

The Deputy Bailiff:

Thank you, Deputy. Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition.

8.1.1 Deputy E. Millar:

I am grateful to Deputy Alves for agreeing to accept my amendment. It seeks only to introduce a realistic timetable for the work to be done. As the report attached to my amendment points out, developing, consulting on, and completing work, will require some resources, both policy and legislative, as well as input from the Employment Forum and wider interested parties, including existing regulatory bodies. With other competing Ministerial priorities, completion by the end of 2024 is, in my view, a realistic alternative, giving us an extra 6 months from the Deputy's original proposition. I share with the Deputy a desire to explore the opportunity to ensure that Jersey's legislation includes appropriate safeguards for employees to be able to bring into the public domain issues of inappropriate and criminal conduct, whether it be in the public or private sector. In fact, I remember as long ago as possibly 2001 being somewhat concerned as a director at a local bank, being asked to roll out a head office whistleblowing policy because we did not have the protections that already existed in the U.K. at that time. There are already, however, non-statutory whistleblowing schemes in operation in Jersey. The Government operates a whistleblowing policy for public servants and the Jersey Financial Services Commission has a dedicated whistleblowing hotline, which it has put in place to help it identify regulatory misconduct. The commission also recommends that financial services businesses should have a whistleblowing policy and procedure in place. Given the increasing significance attached to whistleblowing in many other jurisdictions, and the potential impact on a whistleblower, particularly in a small jurisdiction, it is entirely appropriate for work to be done to scope out the kind of whistleblowing arrangements and employment protections that might be appropriate for Jersey and I commend the amended proposition to the Assembly.

8.1.2 Deputy H. Jeune:

Whistleblowers have an important role in safeguarding the public good and this is repeatedly proven by the scandals that they have uncovered, such as the industrial-scale tax avoidance of Lux Leaks and Panama Papers, or the money laundering of Danske Bank scandal. But looked at another way, there have been huge scandals that have occurred at very large corporate companies, scandals that could have been prevented with the help of whistleblowing, such as the Volkswagen Dieseldiegate, Facebook and Cambridge Analytica, and Enron, that have proved very costly for these corporations, employees, and the environment. If employees had felt confident to raise concerns, maybe these practices would have stopped much earlier on and saved huge amounts of money, job losses, and negative effects on the environment. It is important to remember that many irregularities that could have been major scandals do not happen because someone has dared to speak out, often at great personal risk. So, ultimately, societies, institutions, and citizens lose out when there is no one willing to cry foul in the face of corruption. The 3 main reasons people give for not reporting corruption are fear of the consequences, whether legal, financial, or reputational; the belief that nothing will be done, that it will not make any difference; uncertainty about how, where, and to whom to report. These reasons should be kept in mind when developing whistleblowing legislation. Addressing these concerns should be at the heart of any legislation proposal, if it is to achieve its objective, effectively protect whistleblowers, so that more people who are aware of wrongdoing speak up, facilitating these wrongdoers to be tackled, and any harm to the public interest prevented or stopped. The right of

citizens to report wrongdoing is part of the right of freedom of expression and is linked to the principles of transparency and integrity, therefore I support this proposition.

8.1.3 The Connétable of St. Brelade:

While I would not condone impropriety in banks or larger institutions in any shape or form, I would just counsel care that any proposed legislation changes does not have any affect on the smaller businesses who could ill-afford to have to comply with disproportionate regulation, which may come to the table.

8.1.4 Deputy M.R. Ferey:

Jurisdictions around the world are increasingly recognising the need for employees to be able to make protected disclosures when they see what they believe is wrongdoing by an employer. Employees in such situations need to have the confidence to report wrongdoing and this means creating legal protections for them to do so, whether that be specific legislation aimed at protecting whistleblowers or amendments to Jersey’s existing employment legislation. A key factor in any new legislation will be the protection of an employee from retaliation by an employer for whistleblowing by dismissal or demotion. Jersey’s international reputation is a key driver for our economy, enabling a process where light can be shone on unacceptable practices can only be a good thing for the Island’s reputation in the longer term. Deputy Alves is right, the issue is complex and will need considerable time and resources to get the right outcome. For this reason, I support the amended proposition and urge the Assembly to do so as well.

The Deputy Bailiff:

Does any other Member wish to speak on the proposition? Then I call upon Deputy Alves to reply.

8.1.5 Deputy C.S. Alves:

I would like to thank all Members for their contributions and words of support. The Constable of St. Brelade raised a valid concern, which I hope that the Government will take on board his comments before bringing back the legislation at the end of next year. With that, I maintain the proposition and call for the *appel*.

The Deputy Bailiff:

The *appel* has been called for. Members are invited to return to their seats. I will ask the Greffier to open the voting. If all Members have had the opportunity of casting their votes, I will ask the Greffier to close the voting. I can announce the proposition has been adopted unanimously. **[Approbation]**

POUR: 42		CONTRE: 0		ABSTAIN: 0
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy G..P. Southern				

Deputy C.F. Labey				
Deputy S.G. Luce				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I.J. Gorst				
Deputy L.J Farnham				
Deputy S.Y. Mézec				
Deputy P.M. Bailhache				
Deputy T.A. Coles				
Deputy B.B.S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy M.R. Scott				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy A. Howell				
Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				
Deputy K.M. Wilson				
Deputy M.B. Andrews				

Male Speaker:

Can I propose the adjournment?

The Deputy Bailiff:

Does any Member wish to speak on the adjournment? The adjournment is proposed. The Assembly stands adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:28]