

# **STATES OF JERSEY**



## **PAYMENT OF STATUTORY NOTICE PAYMENTS: ESTABLISHMENT OF PRECEDENT**

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**Lodged au Greffe on 10th March 2009  
by Deputy G.P. Southern of St. Helier**

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**STATES GREFFE**

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

to refer to their Act dated 4th February 2009 in which they agreed to request the Minister for Treasury and Resources to enter into negotiations with former employees of the Jersey branch of Woolworths made redundant following the collapse of the parent company, to seek agreement with them on the assignment to the States of any claims that they might have on the administrators of the company and, providing that these negotiations were successful, to further request the Minister to allocate a sum calculated under the statutory notice terms in the Employment (Jersey) Law 2003 to provide compensation to these employees, and –

to request the Minister for Social Security –

- (a) to recognise that the above decision of 4th February 2009 constituted a precedent which must be followed in similar cases of redundancy through insolvency in Jersey;
- (b) to establish an easily accessible and well-publicised system within the Social Security Department to deliver payments on a similar basis to all Jersey workers made redundant by insolvency from 1st December 2008, and to maintain this system of payments until the Employment (Amendment No. 5) (Jersey) Law 200 relating to redundancy comes into force; and
- (c) to liaise with the Minister for Treasury and Resources to agree the most appropriate manner in which to fund the scheme set out above.

**DEPUTY G.P. SOUTHERN OF ST. HELIER**

## REPORT

It was clear to many in the Assembly that the vote in favour of P.9/2009 (Woolworths employees: payment of statutory notice periods), was based on 2 factors –

- (i) that redundancies through insolvency were occurring;
- (ii) that financial support was required to compensate those made redundant in a timely manner.

Furthermore, it was equally clear that a vote in favour of P.9/2009 was a vote to establish a precedent. Support for Woolworths staff in this way was seen as tacit support for all Jersey employees placed in a similar situation. Many members believed that was what we had done, and certainly that was the impression given to the public at large.

The Council of Ministers recognised this precedent in its comments on the original proposals to deliver support to the ex-Woolworth employees in P.2/2009 –

*“Members may well agree with the sentiment of the proposition and may be tempted to vote in favour of it given the amount involved. However, making payments in respect of these employees will be to discriminate against others made redundant, and against those who could be made redundant over the coming months.*

*Not to make similar payments to all those who find themselves in the same predicament as the former Woolworths employees would be inequitable.*

*The costs of following the moral precedent that would inevitably be set by agreeing this Proposition could well turn out to be very considerable and are unknown.”*

The establishment of this “moral precedent”, as many described it, was reinforced by the Council of Ministers’ comments on P.9/2009, as follows –

*“In the absence of effective representation by a Union, the Council of Ministers believes that it is the Government’s role to ensure that the former employees receive the support and advice necessary to pursue such claims through the Royal Court and supports the decision of the Minister for Treasury and Resources to meet the legal costs of doing so.*

*This will extend further the undertaking to meet the costs of the initial legal advice which the Council of Ministers has already agreed to meet and which is already being provided for the former employees.*

*This action may well set a precedent for future groups of employees which find themselves in the same circumstances and without effective representation or the means to secure that representation themselves.*

*However, it is self-evident to the Council of Ministers that in such cases it is already incumbent upon a responsible Government to ensure that every support and advice is provided.*

*The costs of any such precedent would be considerably less than those established by P.9/2009, particularly as once the current case were pursued through the Royal Court, case law would have been established to guide future decisions and potential actions”.*

It seems clear to me that not only a moral but a legal precedent has been set by the decision to support P.9/2009.

In the light of the widespread acceptance of this precedent, I expected the Minister for Social Security to have

busied himself putting appropriate measures in place for similar cases. It has been clear to all that more redundancies were to be expected throughout the year.

It came as some surprise to me that when I approached both JACS and the Social Security Department on Tuesday 3rd March, 4 weeks after the decision, in the company of 2 employees of Pound World, to ask what was in place to assist them, I was informed that there was nothing set up to deal with statutory notice payments.

At the time of writing, no decision has been made by the Minister, and there is no system in place. Until the 2 employees walked into the Department there had been no contact with the employees.

The redundancies continue. The 62 announced by RBS will be compensated by contractual payments and should not require additional assistance from the government, apart from help with seeking other work and some financial assistance through Income Support. For the 17 workers to be made redundant by Pound World on 14th March, they are in an identical position to the ex-employees of Woolworths. The company is in the hands of the administrators. My understanding is that they will be paid outstanding holiday pay and one week's wages worked in hand.

By 21st March many of these workers will have run out of cash and be wondering how they will keep a roof over their heads. Some will be eligible for Income Support; some will not. Some will have partners in work and will be above income limits; some will not be 5 year qualified. All, I believe, have the right to expect prompt compensation to cover their redundancy in a similar manner to the Woolworths case.

As can be seen in the following table, there are relatively few long-serving members of staff, with the result that most of the payments are relatively small, totalling less than £16,000.

**Table 1 – Statutory Notice payments: Pound World**

<i>Staff</i>	<i>Position</i>	<i>Weekly hours</i>	<i>Weekly wage</i>	<i>Start date</i>	<i>Service length (years)</i>	<i>Statutory Notice (weeks)</i>	<i>Notice Payment (£)</i>
1	Manager	37.5	576.92	14.04.98	10	12	6923.04
2	Manager	37.5	337.43	01.01.02	7	8	2699.44
3	Manager	42.5	363.45	08.05.06	2	4	726.90
4		42.5	246.92	26.07.08	0.5	2	493.84
5		7.0	40.60	04.12.06	2	4	162.40
6		42.5	246.50	24.11.08	<0.5	1	246.50
7		9.0	67.77	04.05.08	0.5	2	135.54
8	Supervisor	42.5	276.25	01.09.08	0.5	2	552.50
9		35.0	203	21.01.08	1	2	406
10		6.0	45.20	14.03.05	4	5	226
11		7.0	45.50	01.06.08	0.5	2	91.00
12		22.5	163.12	24.04.08	0.5	2	326.24
13		42.5	246.92	02.07.07	1	2	493.84
14	Asst. Manager	37.5	400	27.10.08	<0.5	1	400
15		42.5	246.92	16.10.06	2	4	987.68
16	Asst. Manager	42.5	300	21.04.08	0.5	2	600
17		6.0	40.60	19.10.08	<0.5	1	40.60

**TOTAL: £15,605.36**

**Financial and manpower costs**

There will obviously be some demand on officer time to administer such a scheme. These costs may be met from departmental allocations. The cost of the coverage required will depend on the depth of the recession and the number of consequent insolvencies and redundancies. I am not in a position to estimate these costs but merely point out that we have an obligation to meet them given the precedent we have set.