

# STATES OF JERSEY



## PUBLIC HOLIDAYS: DESIGNATION OF MAY 9TH IF ON A SUNDAY

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Lodged au Greffe on 23rd February 2010  
by Deputy M. Tadier of St. Brelade

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STATES GREFFE

## **PROPOSITION**

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

- (a) to agree that 9th May 2010 should be designated as a public holiday;
- (b) to agree that, after 2010, 9th May should be designated as a public holiday whenever it falls on a Sunday, in addition to its existing designation as a public holiday whenever it falls on a weekday (namely between Monday and Saturday); and
- (c) to request the Chief Minister to bring forward for approval the necessary Act under the Public Holidays and Bank Holidays (Jersey) Law 1951 to give effect to this decision.

DEPUTY M. TADIER OF ST. BRELADE

## REPORT

### Foreword

Over the past weeks I have had much time to (re)consider many of the issues surrounding Liberation Day, its occurrence, this year, on a Sunday and whether or not a solution could be found that would be more acceptable to more people and States Members than the current situation.

With this proposition, I hope I have done just that. In coming to this revised position, it has been necessary for an element of *reverse engineering* to have taken place. I will take us through this very briefly.

Firstly, it is necessary to look at the problem.

### Problem 1

Liberation Day is normally given as a holiday, but not always – only 6 out of 7 years.

### Problem 2

Because in one in 7 years Liberation Day is not given as a holiday, this leads to understandable resentment in some quarters and general confusion in others. This resentment and confusion is compounded further by the fact that certain employers will give lieu days off *as a matter of course* and others will not.

### Problem 3

Because there is not a widespread understanding of the technical legal nuances between Liberation Day (a public holiday *only* if it falls on a Monday – Saturday) and other special days (Christmas – a holiday whenever it falls) there is also an assumption, by a significant body of the population, that the Monday after 9th May should *automatically* be made a bank holiday.

### Problem 4

Because the Liberation of Jersey occurred on 9th May and *no other date*, there is an equally significant body of opinion that is resistant to any suggestion that any day close to 9th May should be given as a *substitute* or *additional* holiday, as this will detract from the significance of the *actual* date.

Up until now, these often conflicting considerations have provided 2 equally conflicting positions:

### Position 1 (status quo)

Islanders are left to celebrate 9th May on a Sunday. Many will be free to attend celebrations if they wish, however no public holiday will be granted. No overtime will be paid to workers working on Liberation Day (in contrast to other years). No lieu day will be granted to those not working. No Monday/Friday will be given either side of the weekend. As in keeping with previous years when Liberation Day has fallen on a Sunday.

### **Position 2 (previously proposed)**

As Liberation Day is only a designated holiday when it *doesn't* fall on a Sunday, Sunday itself remains a normal day (as above), so to 'make up' for this fact, a substitute day is given on the Monday/Friday. This satisfies the desire for a stable amount of holiday entitlement from one year to the other. There is however, dissent from those who feel this extra day is distracting from 9th May. There is also concern from sections of the business community who were not expecting to have to meet the costs/losses associated with a public holiday for 2010.

There is, now, the possibility of a 3rd position, which is what we have here:

### **Position 3 (this proposition)**

Sunday 9th May 2010 (and Liberation Sundays in subsequent years) designated a public holiday.

- Advantages:**
- (i) No need to allocate a substitute day. Holiday is granted on the day it falls.
  - (ii) No public dissatisfaction at loss of usual holiday entitlement.
  - (iii) No accusation of diluting or devaluing Liberation Day (by either side).
  - (iv) Addresses question of consistency and resolves problem for future years.
  - (v) Shops will not face 'loss of business' from closing on a weekday, and at 'short notice'.
  - (vi) Will not affect those employers in the private sector who already allocate a day in lieu every year.
  - (vii) Financial/Leisure time advantage for employees.

- Disadvantages:**
- (i) Cost to the Public Sector (although already budgeted for).
  - (ii) Cost to some businesses for staff working on 9th May; cost of lieu days.

### **Main Report**

It is widely accepted that 9th May 1945 was a significant date in our Island history, and that its anniversary should continue to be an important event in our Island's calendar now and into the future.

I think that it is fair to say that whilst the idea of a designated *alternative* day off on the Monday (or Friday) was controversial, few would argue with the actual *principle* of 9th May being a public holiday.

However, under the 1952 Law, Liberation Day is only designated a public holiday if it falls on a *weekday*, the interpretation of which is a *Monday – Saturday*. So whilst 9th May is still Liberation Day even if it falls on a Sunday, **the public holiday that is normally associated with Liberation Day ‘vanishes’ one year in 7.**<sup>1</sup>

So, the question is: ‘*If Liberation day is worth giving as a public holiday on a Monday – Saturday, why does this change when it falls on a Sunday?*’.

Historically, this may be easy to answer. In the past, Sundays were seen as a *de facto* public holiday already. Of course, Jersey society was a very different place in 1952 as was the significance of the Sunday; shops remained shut and all but a (relatively) few essential people had to work. So in 1952, it may well have seemed unnecessary to make provisions for Liberation Day falling on a Sunday.

However, the Jersey of 2010 is a very different place. Newsagents are open, as are garages, restaurants, cafés and even supermarkets. In the public sector the likes of the Prison, the Hospital and the Police Station must all remain functioning 24/7/365. Elsewhere, bus- and taxi-drivers and Harbours and Airport staff will have to show up for work, Sunday or not.

Just as life does not stop because it is a Sunday, Liberation Day does not cease to happen simply because the calendar dictates it is a Sunday.<sup>2</sup>

However, this is *exactly* what happens to the public holiday normally attached to Liberation Day.

### **Liberation Day 2009**

Last year, Liberation Day fell on a Saturday. Although the majority of Islanders did not have to work on a Saturday, it was still *observed* as a holiday. No *substitute holiday* was given for Liberation Day, however States Employees (and many in the private sector – subject to individual contracts) were given a day off *in lieu*. It is anomalous that this year, when 9th May falls on another day when the vast majority of Islanders do not normally work, that no holiday will be observed and no day in lieu be given.

Consequently, those workers who *do* actually have to work on 9th May will receive **no** premium rate for working Liberation Day, **nor** will they be entitled to a day off in lieu. Again, this is in contrast to 9th May 2009, when Liberation Day fell on the Saturday and contractual obligations for the holiday had to be respected.

### **The nub of the problem**

The problem, essentially, lies with the 1952 Law and the fact that *weekday* is defined only as *Monday – Saturday*.<sup>3</sup> However, for those who regularly have to work on Sundays, Sunday *is* a weekday. It seems unfair (and entirely illogical) that those working on a Liberation Day in 2009 could expect to get remunerated at the higher rate and/or a day off in lieu, but those working on Liberation Day in 2010 will not.

That 9th May happens to fall on a Sunday should not put those who *actually* work on that day at a disadvantage. They will have no choice but to work on Liberation Day, and this fact should be reflected in their pay/holiday entitlement.

## Conclusion

By passing this proposition, we will be updating a Law which is almost 60 years old and which, in my opinion, is no longer meeting the needs of a different society. I believe it is an improvement on P.15/2010 in that it has many of its advantages, but few of the disadvantages.

Lastly, this proposition is *not* about getting an extra day off. It is about getting the *right* day off.

It is also about acknowledging the fact that in Jersey a section of the workforce will not be free to celebrate Liberation Day; they will not have the day off to spend with their families (some of whom may have been here during the Occupation), but will be serving the Island on a day when the majority of people will be off.

To put it another way: if Liberation Day is worth designating as a public holiday on a Monday, Tuesday, Wednesday, Thursday, Friday and Saturday then why is it not worth giving off on Sunday?

## Financial and manpower implications

Traditionally, we are told that the cost to the public sector is of the order of £1.5 million. However, members should be aware that this does not mean that £1.5 million will be *saved* by not voting for a day off. Whether States employees work the Friday or not, they will be getting paid for it, so it is wrong to think that this sum will be *saved* for some other capital spending elsewhere. There will, however, be an *actual* cost for those employees on shift-work relating to *time off in lieu* and *overtime* payments. As the majority of States employees work 'regular hours', this total figure will be significantly less than the £1.5 million stated.

It should also be noted, as stated in P.204/2009, that 'Liberation Day is normally observed as a public holiday in the Island each year and funded as such from departmental budgets.'

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<sup>1</sup> On average. For information, 9th May will next fall on a Sunday in 2021 and then in 2027.

<sup>2</sup> One of the main arguments put forward by opponents of a substitute holiday was that Liberation Day is to be observed on the day on which it falls and no other day. This was reflected in comments by several members during the debate of 2nd February:

'Liberation Day is 9th May... It is not difficult.' (Deputy Green)

'I was here on the first Liberation Day and Liberation Day will always be 9th May.'  
(Constable of Grouville)

<sup>3</sup> Ultimately, this problem would never arise if the term *weekday* were extended to mean a day falling *Monday – Sunday* (literally, a day of the week). As things stand, we are left with a strange scenario where people who only ever work from Monday to Friday are given a day *in lieu* if Liberation Day falls on a Saturday, but nothing if they fall on a Sunday. Quite bizarre!