

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 29th APRIL 2008

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

QUESTIONS

1. Written Questions

1.1. DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE ATTORNEY GENERAL REGARDING THE LEGAL POSITION OF THE STATES OF JERSEY WITH RESPECT TO ITS EMPLOYEES UNDER THE EMPLOYMENT RELATIONS (JERSEY) LAW 2007 AND ITS CODES OF PRACTICE:

Question

“In relation to the legal position of the States of Jersey with respect to its employees under the Employment Relations (Jersey) Law 2007 and its related codes of practice, will the Attorney General advise members:

- (a) whether he is aware of any other jurisdiction where government employees, whilst being regarded as employed by a single unified body, equivalent to the States of Jersey Employment Board, for all other employment and contractual purposes, are in the matter of employment disputes, regarded as being employed by the relevant Minister?
- (b) Of the arguments on either side of the question of whether the treatment applied by the States to its employees (above) could be found to be a disproportionate restriction on the right of States employees to take secondary industrial action in support of other States employees?
- (c) In the event of employers and trade unions failing to agree over which services (or elements of services) minimum service agreements outlined in articles 31 to 35 of Code 2 should apply to and what level of minimum services should apply, what legal position would pertain to –
 - (i) individual ministers as employers;
 - (ii) the States Employment Board;
 - (iii) trade unions concerned;
 - (iv) the Minister for Social Security;in respect of their duty of care to provide and maintain essential services to Islanders?”

Answer

- (a) I am not aware of a direct parallel, but have not undertaken a comprehensive analysis of other jurisdictions on the point raised.
- (b) Article 5(3) of the Employment Relations (Jersey) Law 2007 is intended to ensure that certain disputes between Minister and employees are treated as falling within the definition of "collective employment dispute", where the Minister is not the contractual employer.

Article 5(3) and paragraphs 36 to 38 of Code 2, taken together, are also intended to prohibit secondary action where an employer or employees are not party to a dispute.

Restrictions or prohibitions in respect of secondary industrial action exist in other jurisdictions e.g. the United Kingdom. The existence of any such limitations does not automatically result in a contravention of ILO obligations or a breach of applicable human rights legislation.

It is ultimately for the courts, in an appropriate case, to determine whether such provisions are disproportionate. It is understood that the provisions were drafted to meet Jersey's constitutional framework and particular circumstances.

- (c)(i) Each Minister is a corporation sole and may have duties under statute and/or the customary law. Failure to provide essential services may, under certain circumstances, constitute a breach of statutory duty. Any liability arising would be subject to the particular facts of the case and to the jurisdiction of the courts.
- (ii) In relation to the provision and maintenance of essential services, it is unlikely that the States Employment Board would be held to owe a duty of care or be subject to legal liability in such circumstances.
- (iii) Registered trade unions possess some immunities under the 2007 Law in relation to their activities. There are circumstances in which a registered trade union acting outside the 2007 Law (e.g. unreasonable conduct as defined within an approved code of practice) would not benefit from such immunities (see especially Arts 18 to 20 of the 2007 Law). In such circumstances, proceedings might conceivably be brought against a registered trade union in tort. Such action has no precedent in Jersey, even though the immunities only came into existence relatively recently with the passage of the 2007 Law, and is also understood to be rare in other jurisdictions.
- (iv) The Minister for Social Security would not be in a different position to that of any other Minister, and the answer to (i) above applies.

1.2 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE AMOUNT SPENT ON ROAD SAFETY IMPROVEMENTS OVER THE LAST 3 YEARS:

Question

“Would the Minister advise how much has been spent on road safety improvements and traffic measures in the last 3 years and how much of this sum relates specifically to pedestrian safety?”

Answer

During the last 3 years, Transport and Technical Services has spent a total of £403,000 on schemes that include road safety improvements, £265,000 of which relates specifically to pedestrian safety at road junctions, pedestrian crossings and town centre streets. Of this latter amount, £95,000 has been contributed by other agencies – the Parish of St Helier, WEB and a developer contribution - for specific schemes.

Included in these figures are schemes for the installation of new or improved pedestrian facilities during traffic signal controlled junction refurbishments, improvements to pelican crossings by installing high brightness, low energy lamps and the laying of skid resistant material at junctions and bends.

The department seeks to include safety improvements in all of its road improvement schemes and pedestrian improvements often form part of a larger scheme.

1.3 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE MASTER PLANNING EXERCISE RELATING TO THE FUEL FARM:

Question

“In answering my question regarding fuel farm relocation on 1st April 2008, the Minister stated that the Economic Development Department, Jersey Harbours and WEB were undertaking a master planning exercise which included the site of the current fuel farm. Would the Minister advise which of these is the lead body with responsibility for co-ordinating the work involved?”

Answer

The master planning exercise being undertaken by the Economic Development Department, Jersey Harbours and WEB, which includes the site of the current fuel farm, is a genuine example of a common effort between departments.

The Managing Director of WEB chairs the meetings and project management provision is provided by WEB.

1.4 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE CONNEX BUS SERVICE CONTRACT:

Question

With regard to the Connex bus service, would the Minister state:

- (a) whether he intends putting the service out to tender when the current contract expires and if not, why not,
- (b) over what period the new buses were amortised from the start of the service and their present value,
- (c) whether he has considered purchasing the fleet in order to facilitate a change of operator if desired,
- (d) whether he believes in the ‘user pays principle’ and, if so, why he does not apply this to the bus service?”

Answer

- (a) I have not yet made a decision as to whether the bus service will be put out to tender when the current contract expires in September 2009 but I can assure the Deputy that I will inform States members as soon as a decision has been made.
- (b) The original fleet of vehicles were leased over the length of the contract, that is 7 years and the residual value at the end of the contract was assumed to be £18,000 per vehicle. I do not know the current value of these original vehicles as the fleet has been supplemented since 2002.

- (c) I have considered whether the States, through the Vehicle and Garage Plant Account, should purchase the fleet not only to facilitate the changeover of operator but also to reduce the risk should an operator choose to leave the Island and to ensure an appropriate vehicle replacement programme is implemented to smooth the procurement cycle. However, the current contract specifically includes the facility for an incoming service provider to acquire the current operator's fleet at market value and I am comfortable at present that this provides the security the Island requires.
- (d) In general, I do support the 'user pays principle' but not where there is clearly an element of providing a service for social reasons. If all bus passengers, including our senior citizens and children, paid the full cost of the service, the average fare would be £1.80. I do not believe that this would be acceptable to the public and certainly it would not support efforts to optimise public transport to reduce congestion and pollution from road traffic.

1.5 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE RESURFACING OF ST. CLEMENT'S COAST ROAD:

Question

"With regard to the recent re-surfacing of the St Clement coast road near Brig Y Don, will the Minister advise whether he has yet discovered the reason for the 'ripple effect' that exists, especially towards the western end of the work, and further advise what he intends to do about it?"

Answer

When the Deputy refers to the "ripple effect" I presume he means the effect caused by the joints in the asphalt surfacing. On all surfacing contracts there will inevitably be a number of joints where one sequence of asphalt laying meets another.

For operational reasons this joint sequencing at La Route de la Côte was closer spaced than would normally be desirable which has resulted in the perceived "ripple effect". An inspection was carried out in March of this year and where "out of specification" works were identified, remedial works were instructed. These remedial works have now been completed at the Contractor's expense and as in all TTS surfacing contracts the contractor remains responsible for any defects that occur within the first twelve months

1.6 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE CHIEF MINISTER REGARDING MEETINGS TO DISCUSS THE HAUT DE LA GARENNE ISSUE:

Question

Would the Minister confirm that Civil Servants and politicians were meeting every day to discuss the Haut de la Garenne issue, whether they are still doing so, and the purpose of those meetings?

Answer

Following the announcement by the States of Jersey Police on Saturday, 23rd February 2008 of physical findings at Haut de la Garenne, an Emergency Co-ordination Centre (ECC) was established in the Chief Minister's Department. The ECC had the following aim:

"to ensure States of Jersey manages the issues around the Haut de la Garenne Police investigation, and any subsequent historical child abuse inquiries, in an efficient and effective manner,

maintaining public reassurance, as well as the professional reputation, and economic wellbeing, of the Island.”

Two distinct groups were formed with the following purposes:

1. The Chief Minister’s Advisory Group - to support the Chief Minister in issues of assessment and decision-making;
2. Officer Group - to support the Chief Executive in issue assessment, management strategy development and implementation, to include overall strategy management and review, risk strategy - assessment and contingency, recording and logging.

Meeting dates – The Officer group met 11 times, from 27th February 2008 to 14th March. The Chief Minister’s Advisory Group met 10 times from 28th February to 12th March. No such meetings are currently taking place but future meetings may be called should circumstances change.

1.7 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE CHIEF MINISTER REGARDING THE TOWN REGENERATION STRATEGY:

Question

“The Draft Business Plan for 2009 contains, under ‘Chief Minister’s Department, 2009 Additional Spending Pressures’ a sum of £200,000 for ‘Town Regeneration Strategy’. Would the Minister give details of the work to which this sum relates?”

Answer

This funding pressure relates to the initial funding for the St Helier development and Regeneration Strategy. In the longer term profits from the Waterfront developments will be used, but they will not be available for some time.

Members will be aware of the proposed arrangements for driving forward the strategy for the regeneration of St Helier which are described in P.194/2007 which proposes the establishment of the Jersey Enterprise Board.

P.194/2007 proposes the setting-up of a Regeneration Task Force (RTF) which will take lead responsibility for implementing the Regeneration Strategy, and will be supported by an executive, for whose work there is presently no funding available. The establishment of RTF will enable a more cohesive, integrated, cross-departmental approach to regeneration. In the first instance, it is necessary to turn the Strategy into a detailed implementation plan, and RTF will oversee its implementation in partnership with business and developers.

The funding will replace the ‘Urban Renewal Fund’ which has been used by the Planning and Environment Department in recent years to fund schemes of improvement to parts of the Town’s public realm. Examples include:

Broad St Regeneration (2005) – £530,000

New Street improvements (2005) - £90,000

Charing Cross (2005-7) - £105,000

Conway St pedestrian improvements (2007) - £215,000

It is intended that works under the 'Street Life' programme would continue under this funding, and would include improvements to shopping streets such as Beresford St, Waterloo St, Burrard St and Minden Place and the narrow section of Bath St. It would be used to improve the main pedestrian routes into central St Helier and some of the smaller areas of public open space around the town. The RTF could also consider using this funding for more innovative purposes in line with the strategy to improve accommodation and the environment across the wider urban area of the town and other settlements.

Additionally the funding would be used to commission more detailed local area plans for the 'Key Areas of Change' identified in the St Helier Strategy, and Development Briefs for large private development sites as referred to in the recent 'Town Development Guidelines' planning policy guidance published by the Planning and Environment Minister.

1.8 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING SUPPORT FOR ECONOMIC DIVERSIFICATION:

Question

"Given that the Draft 2009 Business Plan postulates a spend of £199,000 to 'directly market the Island's finance industry' and a £203,000 'decrease in destination marketing', would the Minister explain how this position squares with the States avowed aim to diversify the Island's economy?"

Answer

The Draft 2009 Business Plan referred to by the Deputy is a first draft of top line figures that was submitted to the Treasury in January 2008. The Economic Development Department is presently working on the detail of the 2009 States of Jersey Business Plan.

The Finance Industry remains very important to the Islands economy and the Department recognises that a significant proportion of Jersey's tax revenues are derived from business generated from the UK. Recent UK initiatives have had the potential to undermine some of those income streams and demonstrate a measure of vulnerability in the sectors affected. It is therefore an opportune moment to renew our efforts in terms of diversifying the sources of business and to target directly other geographical markets. Much of this activity will relate to the financial services industry but not exclusively so.

In addition the government is doing a great deal to diversify the economy through its Business Enterprise strategy. This will further diversify the Island's economy by broadening the business base of the Island's key industry.

As regards the visitor economy we are making better use of the funds available and we have seen growth in the sector in 2007. Early indications for the 2008 are encouraging and we will continue the change of emphasis as further investments are made in transportation through the development of the route network upon which all Jersey business is dependent.

1.9 DEPUTY S.S.A.P. POWER OF ST. BRELADE TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING MILK IMPORTATION:

Question

“Would the Minister explain how and why imported fresh milk, such as 'St. Ivel (with Omega 3)' (which contains fresh whole milk, Omega 3 (derived from fish oils) and milk proteins), is allowed to be sold in Island supermarkets and would this situation change if the Jersey Dairy decided to sell fresh milk with an Omega 3 additive?”

Answer

The Customs and Excise (Import and Export Control) (Jersey) Order 2006 requires that '**cows milk in liquid form**, whether or not processed' shall not be imported except under the authority of a licence. The purpose of this restriction is to protect the local dairy industry. Licences for milk based products are only issued by Custom and Excise Department following consultation with the Economic Development Department (Rural Economy Section). EDD only recommend the issue of import licenses on modified milk products where ingredients have been added to pure milk that provide a nutritional benefit and where an equivalent product is not available locally. Close liaison is maintained with Jersey Dairy prior to any licence being issued.

Examples of fortified milk products would be St Ivel Advance which contains Omega 3, or Flora Pro-Activ which contains plant sterols to help reduce cholesterol. Customs and Excise have currently issued licenses to some 4 businesses permitting them to import 'Omega 3' type products. For completeness other similar products which are currently licensed on import include 'mini pots' of milk and cereals which include a portion of milk in each carton ('Kellogs 2 Go') as similar products are not available from the local industry.

EDD and Jersey Dairy have been monitoring the effect of modified milk products on the Island milk market. The total liquid milk sales in Jersey amount to approximately 9.5m litres per annum. Information available to Jersey Dairy would suggest that retail sales in Jersey of Soya, Goats and Omega 3 (St Ivel Advance) milk in 2007 totaled circa £320k of which Omega 3 milk accounted for circa £110k. Using retail price per litre of 94.5p this suggests that sales of Omega milk in Jersey were circa 116k litres. Omega 3 products therefore account for 1.2% of the total milk market.

In addition, the latest market figures show that for the 52 week period ending 24/02/08, volume sales of modified milk have fallen by 35.0% to 17.1m litres, 9.2m litres less than the previous year. Consumer expenditure has also fallen over the period, by 30.8% (£6.6m) to £14.8m. The decline in sales would seem to be based on the price differential over pure milk, the products fishy taste and a realisation that you would have to drink 25litres to get the same omega 3 as one piece of salmon.

Jersey Dairy did actively consider introducing naturally enhanced omega 3 milk produced by adjusting a cow's diet with a natural meal made from lupin seed. The size of the potential market and the current declining sales in the UK of omega 3 products have demonstrated the investment costs by Jersey Dairy in the omega 3 market would not be economic. With the above in mind Jersey Dairy have no objection to the current modified milk products on sale.

1.10 DEPUTY S.S.A.P. POWER OF ST. BRELADE TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE ANNULMENT OF THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (JERSEY) ORDER 2007:

Question

“Following the States decision to annul the Motor Vehicles (Construction and Use) (Amendment No. 9) (Jersey) Order 2007 which required all heavy goods vehicles, medium goods vehicles of

GLW over 3.5t and vehicles drawing trailers (among others) to display a '30' mph sticker, would the Minister advise whether the owners of the said vehicles will receive a re-imbusement to meet the costs of the redundant signage and stickers affixed to their vehicles?"

Answer

The implementation date of the Motor Vehicles (Construction and Use) (Amendment No 9) (Jersey) Order 2007 was 1st January 2008 and the act annulling the Order is dated 1st April 2008. During those dates, it was law to display a 30 mph sticker on certain vehicles and those motorists and hauliers who affixed appropriate signage or stickers did so to comply with the law. The fact it is no longer law is as a result of a States decision and not a reversal of the Minister's decision.

I understand that most of the stickers were priced about £4.50 with some of the more rigid signage being a little more. I do not consider that it is appropriate that the costs of this be reimbursed as people were correctly complying with the law as it stood at that time.

1.11 THE CONNÉTABLE OF ST. JOHN TO THE MINISTER FOR HOME AFFAIRS REGARDING POLICE AND CIVILIAN STAFF NUMBERS:

Question

"Would the Minister advise the Assembly of the total amount of staff employed by the States of Jersey Police on an annual basis from 1996 inclusive to date, providing a breakdown of police officers by rank and showing separate numbers for civilian staff?"

Answer

It is not possible to provide the actual amount of staff employed by the States of Jersey Police as the number of persons actually employed can vary on a weekly basis as people enter and leave the organisation. It is however possible to give some details of the authorised strength which is usually close to the number actually employed. During recent years the HR computer system used to record these details has been changed and some old records deleted. However some earlier details are available from manual sources.

The 1996 Clothier Report indicates that in 1996 the States of Jersey Police had an authorised strength of 247 police officers, 17 port control officers and 69 civilian workers.

The Police Annual Report for the same year gives the following breakdown of rank:

1 Chief Officer

1 Assistant Chief Officer

3 Superintendents

14 Inspectors

36 Sergeants

and 187 Constables

(giving a total of 242)

It is believed that this reflects actual rather than authorised strength at the time the report was written and that the force was carrying vacancies at that time.

The totals for years in respect of which more accurate records are available are as follows:

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008
Police Officers	238	240	241	241	243	243	243	245	245
Civilian Staff	91	89	88	91	99	98	97	90	87.5

It should be not

ed that the authorised strength for constables refers to officers who have completed the initial phase of their training and who have been authorised to undertake operational duties. Recruits in training may be additional to that total.

The current actual strength and rank structure is as follows. It should be noted that these figures exclude officers who have given notice of their intention to leave the force:

1 Chief Officer

1 Deputy Chief Officer

1 Superintendent

3 Chief Inspectors

15 Inspectors

41 Sergeants

164 Operational Constables

and 17 recruits in training

This gives an overall total of 226 operational officers, 19 below the authorised strength, although this should reduce to 2 below the authorised strength when the new recruits become operational in a few weeks time. It is planned to engage a further intake of recruits in January 2009 for deployment in May 2009.

Taken overall there has been no significant change in police strength during this period, although since 1996 there has been some reduction in senior ranks in favour of more junior posts and an increase in civilian staff, largely to address additional requirements in IT, COMMS, and the Criminal Justice System.

1.12 DEPUTY S.S.A.P. POWER OF ST. BRELADE TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE TIME LIMITS FOR ABORTIONS:

Question

“Given that improvements in neo-natal care have led to increasing numbers of babies surviving at earlier stages of gestation, would the Minister consider reducing the current abortion time limit of 24 weeks?”

Can the Minister give an indication to the Assembly of his position on the proposed Human Fertilisation and Embryology Bill that will be coming to the House of Commons very soon?

What is the Minister's position on the results of research by Newcastle University that has produced human-animal "admixed" embryos?

What is the Minister's position on stem-cell cord blood research, whereby medical scientific research views that the harvesting and saving of blood contained in the umbilical cords of babies could hold the key to a range of life-saving treatments?"

Answer

The Deputy is alluding to some interesting developments concerning neonatal care and forthcoming changes to legislation on the mainland which will be debated in the House of Commons very shortly. The field of neonatology and stem cell cord research is a highly complex field of medicine which has attendant ethical dilemmas of great significance.

The Deputy is quite unrealistic if he believes that by Tuesday 29th April I can put myself in a position of considering these matters of medicine and of ethics, taking authoritative professional advice, and determining my own personal political position in all of this. I am assuming that the Deputy would wish me to deal with this subject with the seriousness and the application it deserves. Accordingly, might I suggest that the Deputy and I meet with appropriate clinicians within my Department in order that we can jointly explore these matters. I can then in due course advise the Deputy of 'my position' on the matters to which he alludes.

1.13 DEPUTY S.S.A.P. POWER OF ST. BRELADE TO THE MINISTER FOR HOME AFFAIRS REGARDING THE USE OF VICTORIA AVENUE'S OVERTAKING LANES:

Question

“What is the position of the States of Jersey Police to vehicles driving at less than a safe and appropriate speed on both the eastbound and westbound lanes on Victoria Avenue, which are supposed to be used for overtaking?

What is the position of the States of Jersey Police on overtaking in the inside lane when drivers sit in the overtaking lane and drive well below the speed limit?"

Answer

The States of Jersey Police are committed to promoting road safety and enforcing the traffic laws and regulations. It is acknowledged that driving on any road at an exceedingly slow speed can cause danger to other road users with regard to traffic build up and frustration on the part of other road users. It is also acknowledged that “undertaking” slower moving vehicles on a dual carriageway is not best practice for motorists. The Road Traffic (Jersey) Law provides for an offence of driving without due consideration of other road users and, depending on the circumstances, motorists may be warned or reported for driving in either of these ways.

1.14 DEPUTY D.W. MEZBOURIAN OF ST. LAWRENCE TO THE MINISTER FOR HOME AFFAIRS REGARDING STAFF SUSPENSIONS:

Question

“Would the Chief Minister advise the Assembly of the total number of staff, by Department, who were suspended as a result of disciplinary infractions during the year 2007 and, in each case, identify the employee group concerned, the nature of the alleged infraction, the period of suspension and the means of disposal of the case?”

Would the Minister advise the Assembly of the total number of staff who were suspended during the period 2006 to 2007, and who remain suspended, and identify in each case the Department concerned, the employee group concerned, the nature of the alleged infraction, the period of suspension and the reason why the employee remains suspended?”

Answer

EMPLOYEE SUSPENSIONS

Table A – This table shows in an anonymised form the employees (defined by Department) who were suspended between January and December 2007

Department	Employee Group	Pay	Suspension Commenced	Suspension Finished	Method of Disposal
Home Affairs	Fire Service		3/1/07	14/2/07	Disciplined
Home Affairs	Police		15/3/07	23/3/07	Resigned
Home Affairs	Police		6/9/06	4/7/07	Resigned
Home Affairs	Police		16/4/07	18/10/07	Disciplined
Home Affairs	Civil Servant		6/12/07	17/1/08	Dismissed
Home Affairs	Prison Officer		28/12/07	1/2/08	Disciplined
Social Security	Civil Servant		23/5/07	20/8/07	Resigned
ESC	Highlands College		30/4/07	Ongoing ¹	N/A
ESC	Teacher		21/12/07	21/3/08	Dismissed
Probation	Civil Servant		11/9/07	24/10/07	Acquitted
Probation	Civil Servant		28/7/07	15/9/07	Reinstated
EDD	Civil Servant		20/11/07	4/2/08	Disciplined
HSS	Doctors & Dentists		19/10/06	Ongoing ²	N/A
HSS	Nurses & Midwives		3/7/06	31/8/07	Resigned
HSS	Nurses & Midwives		1/6/06	28/4/07	Resigned

¹ Case significantly delayed due to employee sickness

² Case significantly delayed – see note to Table B

HSS	Nurses & Midwives	30/3/07	9/8/07	Disciplined
HSS	Nurses & Midwives	7/12/07	18/1/08	Reinstated
TTS	Manual Worker	18/10/07	11/12/07	Dismissed
TTS	Manual Worker	22/10/07	7/11/07	Dismissed
TTS	Civil Servant	7/12/07	31/12/07	Resigned
TTS	Manual Worker	5/12/07	7/12/07	Resigned

Notes to Table A.

- Consistent with my response I gave to the Deputy on this subject in 2007, despite asking for the nature of the infraction, this has not been given in this report as there is a concern that it could be possible to identify an individual from the description of the nature of the infraction. Given that a suspension is carried out in the first instance on an accusation that upon investigation could subsequently be unfounded, it could be considered reckless and unreasonable of the employer to run the risk of identifying an employee in this way. This is of particular concern in a small island community such as Jersey where an individual's professional reputation could be severely affected by a spurious or unfounded allegation. However, it is factual to say that suspensions are carried out due to alleged behaviour or actions which, if proven, would constitute gross misconduct.

- There were 21 employees who were either suspended in 2007 or whose suspension carried over into 2007 (excepting those employees already identified in my previous report to the Deputy in early 2007). The 21 employees belonged to the following pay groups:
 - 6 x Civil Service
 - 3 x Police
 - 4 x Nurses & Midwives
 - 3 x Manual Workers
 - 1 x Fire Service
 - 1 x Highlands College managers
 - 1 x Teachers
 - 1 x Doctors & Dentists
 - 1 x Prison Officer

- As I informed the Deputy in 2007, following a report and recommendations presented to the States Employment Board (SEB) in May 2006, the situation regarding employee suspensions in the public sector has become more closely monitored. Foremost in that report were the recommendations that:
 - All suspensions be notified to the Employee Relations Section of the Chief Minister's Department at the time of the suspension thus enabling the level and duration of the suspension to be monitored; and,
 - Chief Officers to ensure that all suspensions were formally reviewed one month from the suspension date and no less frequently than a month thereafter.
 - The maximum time between suspension date and the disciplinary hearing be 8 weeks (with an expectation that it will be done before that time if possible).

- The SEB continues to review all employee suspensions by way of a twice yearly report.
- Of the 21 employees suspended in 2007, a total of 17 were actually suspended in 2007, with the remaining 4 whose suspensions carried over from 2006. Of the 17 actually suspended in 2007, the SEB was pleased to note that 11 (65%) were dealt with in, or very close to, the 8 week period recommended in the above mentioned Report. The remaining cases have been generally been delayed due to the need for an internal or external investigation or because the employee has been signed off sick. These are considered by the SEB to be genuine reasons for a delay to a case being resolved.

EMPLOYEE SUSPENSIONS (CONT.)

Table B – This Table depicts the number of employees (by department) who were suspended during the period 2006 to 2007 and who remain suspended.

DEPARTMENT	EMPLOYEES WHO REMAIN SUSPENDED
EDD	None
TTS	None
Airport	None
Harbour	None
ESS	None
ESC	None
HA	None
P&E	None
CMD	None
Housing	None
HSS	One
Treasury & Resources	None

Notes to Table B

- There is one employee who was suspended by his Department in 2006 and who remains suspended. As identified in Tables A and B, that employee is a member of the Doctors and Dentists pay group employed in the Health and Social Services Department and has been

suspended since 19/10/06. The totality of the information provided to the Deputy shows this is clearly an exceptional case and involves agencies outside of the Department for which the employee works. As explained in the notes to Table A, it is not appropriate to identify the nature of the infraction.

1.15 SENATOR S. SYVRET TO THE MINISTER FOR HOME AFFAIRS REGARDING THE ISSUE OF WARRANTS:

Question

- “1. Will the Minister for Home Affairs supply the following information –
 - (a) How many warrants have been applied for by the States of Jersey Police Force in connection with the present investigation into historic child abuse?
 - (b) Of those warrants applied for in connection with the present investigation, how many have been agreed?
 - (c) Of those warrants applied for in connection with the present investigation, how many have been refused?
2. For each of the years from 1995 to 2007 inclusive, will the Minister for Home Affairs provide the following information –
 - (a) In each year, how many warrants were applied for by the States of Jersey Police Force in connection with child protection matters?
 - (b) In each year, how many of those applications were agreed?
 - (c) In each year, how many of those applications were refused?
3. In the event of any of the warrants referred to in questions 1 and 2 having been refused, could the Minister inform the Assembly of the reasons cited for each such refusal?”

Answer

1. (a) One arrest warrant and one search warrant.
 - (b) The arrest warrant was granted.
 - (c) The search warrant was refused.
2. Senator Syvret has agreed to a 2 week extension to allow this information to be provided by May 13th
3. The reason given was that there was no legislation covering the issue of warrants in the circumstances of this operation as the application did not fall within the provisions of the Police Procedures and Criminal Evidence Law.

1.16 SENATOR S. SYVRET TO H.M. ATTORNEY GENERAL REGARDING CONFLICTS OF INTEREST:

Question

“Will the Attorney General provide a detailed explanation of what formal, written policy exists to guide him, the Solicitor General and members of the judiciary in respect of avoiding conflicts of interest and the appearance of conflicts of interest?”

Will the Attorney General explain how members of the public are able to access any such policy?”

Answer

There are currently no formal written departmental policies to guide me and the Solicitor General in respect of avoiding conflicts of interest. In practice however, in a small jurisdiction like Jersey, we are conscious of the need to be sensitive to real and perceived conflicts of interest. There are a number of steps we take to avoid potential conflicts of interest including ensuring that the matter is dealt with by the appropriate Crown Officer or, in some cases, by taking independent advice. It is, for example, always the case that any criticism of the Attorney General is dealt with by the Solicitor General and vice versa. But above all, it requires an attitude of mind and a commitment to acting with integrity which is something which Islanders have always expected of their Crown Officers.

I believe, accordingly, that there are effective safeguards in place. I propose however to consider with the Solicitor General the extent to which the situation may be improved by the creation of a formal written policy and whether this would add value to the way the Crown Officers’ business is done. If it is concluded that such a policy would be helpful, it would of course be made publicly available.

I have been authorised by the Bailiff to state that the Jersey Judicial Association, comprising all those exercising judicial functions in Jersey, adopted a Code of Conduct in July 2007. The Code deals, amongst other matters, with conflicts of interest. The Code has not yet been published, but I am advised the Association is giving consideration to the desirability of doing so.

1.17 SENATOR S. SYVRET TO THE MINISTER FOR HOME AFFAIRS REGARDING PROSECUTIONS RELATING TO CHILD ABUSE CASES:

Question

“(1) Will the Minister for Home Affairs supply the following information –

- (a) How many cases for prosecution have been submitted to the Law Officers’ Department by the States of Jersey Police Force in connection with the present investigation into historic child abuse?
 - (b) Of those cases submitted for prosecution in connection with the present investigation, how many have been accepted by the Law Officers’ Department?
 - (c) Of those cases submitted for prosecution in connection with the present investigation, how many have been rejected by the Law Officers’ Department?
- (2) Of those individuals who have had charges against them submitted to the Law Officers’ Department by the States of Jersey Police Force for prosecution in connection with the present investigation into historic child abuse –
- (a) How many have been accepted for prosecution for *all* of the charges submitted by the Police?

- (b) How many have been accepted for prosecution for only *some* of the charges submitted by the Police?
- (3) For each of the years from 1995 to 2007 inclusive, will the Minister for Home Affairs provide the following information –
- (a) How many cases for prosecution in connection with offences relating to child abuse have been submitted by the States of Jersey Police Force to the Law Officers' Department?
- (b) Of those cases submitted, how many were accepted for prosecution?
- (c) Of those cases submitted, how many were rejected for prosecution?
- (4) Of those individuals who have had charges against them submitted for prosecution by the States of Jersey Police Force to the Law Officers' Department in each of the years from 1995 – 2007 inclusive –
- (a) How many were accepted for prosecution for *all* of the charges submitted by Police?
- (b) How many were accepted for prosecution for only *some* of the charges submitted by the Police?
- (5) In the event of any of the cases for prosecution referred to in questions 1, 2, 3 and 4 having been refused, could the Minister inform the Assembly of the reasons cited for each such refusal?

Answer

- 1 (a) Two cases have been submitted. One prosecution file and one evidence bundle have gone to the Advocates in the Law Officers Department, Morier House
- (b) Charges have been laid in respect of the prosecution file. A reply is pending in respect of the evidence bundle.
- (c) See above.
- 2.(a) & (b)
- In respect of the file referred to above, some additional charges have been added and some may be discontinued.
3. Senator Syvret has agreed to a 2 week extension to allow this information to be provided by May 13th.
4. Senator Syvret has agreed to a 2 week extension to allow this information to be provided by May 13th.
5. Not applicable.

1.18 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE CHIEF MINISTER REGARDING STATEMENTSS MADE AFTER THE IMAGINE JERSEY EVENT:

Question

In response to my question of 1st April 2008, the Chief Minister promised to give me evidence in writing that the statement “The survey and initial conference votes indicated a strong opposition to any increase in taxes and contributions” was correct; will he now do so?

Answer

All the evidence is presented in the report of the consultation findings published by Involve in February 2008. This document is publicly available and the Deputy continues to make selective quotes and ignores the context within which they are made. The section from Involve’s report referring to all the information that came out of the Imagine Jersey consultation process is reproduced below so that members can see exactly what was reported.

“There were mixed feelings among participants about the proposals to increase taxes and contributions to maintain current levels of public services. The submissions to the written consultation revealed a level of support for paying more, although some respondents stated that they would only support this if the finance industry would not be adversely affected, or only if the States of Jersey did more to control spending.

The survey and the initial conference votes indicated a strong opposition to any increase in taxes and contributions. However, when asked how much more people were prepared to pay, few participants maintained this position. In fact, when asked to come up with their own answers to the predicted budget deficit in 2035, all of the citizen groups choose to include an increase in taxes and contributions as part of their solution.

This may mean that whilst people do not actively support increases in taxes and contributions, many are willing to accept some level of increase in order to sustain public services.

Concerns raised in response to this option related to how tax increases would affect the cost of living, in particular for those less well off, and how it would affect Jersey’s attractiveness to overseas businesses.

Suggestions put forward included paying directly for some services, introducing social insurance schemes and raising the taxes for businesses and high earners.”

1.19 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR SOCIAL SECURITY REGARDING G.P. CHARGES AND THE IMPACT OF THE REMOVAL OF TRANSITION SUPPORT:

Question

The Minister for Social Security will table an answer to the following question asked by Deputy G.P. Southern of St. Helier –

- (a) Further to my question of 1st April 2008 regarding Household Medical Accounts (HMAs) will the Minister give the level of means assessment previously applied to Health Insurance Exemption (HIE) applicants, and list those benefits that were disregarded, along with that currently applied for Income Support (IS) in the case of households containing a single individual?

Answer

The table below sets out whether or not benefits were included in the income assessment of HIE and Income Support

Type of Benefit	Treatment under HIE	Treatment under Income Support
Pension	Included with a fixed disregard	Included with a fixed disregard
Social Security Benefits not otherwise listed	Included in full	Included in full
Parish welfare	Included in full	N/A*
Family allowance	Included with a percentage disregard	N/A*
Maternity Allowance	Included with a fixed disregard	Included in full
Long Term Incapacity Allowance (75% or above)	Included with a fixed disregard	Included in full
Disability Transport Allowance	Not included	N/A*
Attendance Allowance	Not included	N/A*
Invalid Care Allowance	Not included	Included in full
Child Disablement Allowance	Not included	N/A*
Adult Disablement Allowance	Not included	N/A*
Childcare Allowance	Not included	N/A*
Survivor's Pension (paid to survivors under pension age)	Not included	Included in full
Educational grants	Not included	N/A*

* These benefits have all been replaced by Income Support.

HIE status was only available to certain individuals:

It was available to lone parents with children under 11, who did not work more than 25 hours per week.

It was available to pensioners who did not work more than 25 hours per week.

It was available to individuals with a 75% (or higher) LTIA award who did not work more than 25 hours per week

If the individual satisfied the conditions for HIE status, it was granted to a single person with an assessed income, excluding rent, of less than £145.50 per week and to a couple with up to £241.35 per week. These limits were increased for lone parents with dependant children.

Income support is available to anyone with an income below the limit set for their circumstances. As it takes account of personal circumstances, there is no single limit to receive income support. A single person, living in States accommodation at the fair rent of £143.50 per week, can have a gross income of up to £306.73 per week (if working) and £296.03 (if a pensioner) and qualify for income support. An individual with a disability or chronic illness is likely to qualify for additional assistance, which will increase the level to which benefit is paid.

Question

- (b) Can he yet confirm that **all** GPs will not charge the previously agreed £5 fee per visit directly to the patient, and that this has now been agreed with GP representative bodies? Further, will he state what the average payment per visit to a GP was to be paid from an individual's HMA under the previous arrangement (with £5 direct) and whether this will change under the new arrangement, and if so how?

Answer

GPs in Jersey are independent businesses and will set their own fees, there is no statutory framework under which they are required to charge specific fees. A GP in Jersey may be a member of the Primary Care Body (formerly the Jersey Medical Society). This organisation is a non statutory professional association and membership is voluntary. The £5 consultation charge was originally proposed by GP representatives but most if not all surgeries have decided not to implement the charge.

The standard rate of saving for an HMA has been set at £0.49 per week per visit (on an annual basis). 49p per week represents £25.48 per annum, plus the medical benefit that is provided through the Health Insurance Law provides a total of £40.48 per visit.

We will monitor these rates carefully to ensure that they cover the average cost of a GP visit. GPs have historically provided a high rate of discounting within their fee structure and this needs to be taken into account when setting benefit rates.

Question

- (c) Is the Minister now in a position to confirm that where a person on IS, whether with a HMA or not, requires home visits from their GP, the full costs of these visits is not allowed for in the calculation of the level of IS, and if so, will he assure IS recipients and GPs that these costs will be met from special payments?

Answer

If a person on income support does not have an HMA, the person is responsible for their GP costs, as they were before the introduction of income support. If the person has a serious illness requiring a number of home visits, or any other exceptional medical expenses, they can apply for a special payment under Income Support (Special Payments) (Jersey) Regulation 2007.

If a person on income support has an HMA, the level of saving will be set to match the expected number and cost of visits for that individual. As HIE was not based on an individual's clinical need, the Department does not have all the medical facts to set an appropriate rate tailored to the individual's medical need. It is necessary to have the individual's consent to obtain relevant medical facts and as such information is being

gathered at present. It will thus take some time to complete this for all households with an HMA. In the meantime, individuals have been allocated a level of savings sufficient to cover 8 or 12 surgery visits per annum. This funding can of course be used in respect of a smaller number of home visits, or some combination of the two. Special payments are available for additional GP medical services.

If an individual has need of regular home visits, GPs can and are writing to the Department to confirm this need and thus the necessary arrangements regarding the HMA can be made to pay additional benefit into these accounts.

Question

- (d) Does the Minister accept that the removal of free access to a GP under HIE, which covered many households on the lowest incomes, and its replacement with HMA rather than making these households better off under IS has made them in fact worse off?

Answer

No, those on the lowest incomes have benefited from the introduction of income support.

Question

- (e) Notwithstanding his answer above, will the Minister explain to members how the following example, which typifies what Social Security actually delivers for many single people, transfers benefits to the least well off?

Previous weekly income = £165.76 (Invalidity Benefit).

States Rent = £118.95 less abatement £80.43 = rent £38.52

= net After Housing Cost (AHC) disposable income = **£127.24**

with free access to GP (monthly visits)

Current weekly income = £165.76 (Invalidity Benefit)

Transition = £80.43 split Housing £74.55 HMA = £5.88

Rental payment = £44.40

Net AHC disposable income = £165.76 – £44.40 – £5.88 = **£115.44**

This person's calculated IS is £74.62 therefore when transition support is removed in October of this year he will be a further £5.81 worse off (before adjustment for GST and indexation). This person will have £17.61 less available to spend than he did in January.

Future Net AHC disposable income = **£109.63**

Can the Minister justify a reduction of nearly 14% in this person’s disposable income under Income Support? Does this person, and many hundreds like him, qualify as one of the better off who were bound to be losers? Will he point out where, in any documentation or speech he has given to members, has he indicated that those existing on a single benefit were to be made worse off under his new scheme? Did he know that such an outcome would result from his scheme and if so, when did he know, and if not why not?

Answer

I can assure members that the example set out by the Deputy does not “typify what Social Security actually delivers” as it contains many errors and completely misrepresents the new system.

The Deputy suggests that the Income Support for this individual is £74.62. There is no explanation of this figure. The calculation of income support for a single person receiving invalidity benefit and paying £118.95p per week rent is as follows:

Adult	83.58
Household	42.84
Accommodation	118.95
Clinical cost level 2	5.32
Total	250.69
Income	165.76
Income support benefit	84.93

In addition, Income support now provides two additional levels of personal care component that were not previously available. If this individual has a long term medical condition or disability, they are likely to qualify for one of these two new benefits.

If the individual qualified for the lowest rate personal care component, their benefit would be increased to £105.30 per week.

The question suggests that the individual is receiving transition support which will be removed in October. This is not correct. This individual is receiving Income Support at a higher rate than previous cash benefits and he will see an increase in Income support components in October 2008.

Question

- (f) Is the Minister aware, and if so when was he aware, that the status of Attendance Allowance was to be radically changed under his Income Support scheme in that this payment “for people who are severely disabled, who need constant care by day or night.... payable in addition to any of our benefits or allowances” (SS doc AA1, April 1998) is now not disregarded in the calculation for the level of IS and has therefore been effectively removed from many households?

Answer

Attendance Allowance is one of the 14 benefits that has been replaced by Income Support. As such, it no longer exists. Individuals with high personal care needs receive a personal care component under the Income Support Scheme.

Income Support has introduced 2 components that had no direct equivalent in the previous system. The personal care level 1 component provides £20.37 per week to individuals with some personal care needs and the carer's component (£41.79 per week) provides additional support to a full time carer in an Income Support household.

Question

- (g) Will the Minister point to any document or speech he has delivered to members which clearly sets out that one of the consequences of the introduction of IS would be to remove this benefit from many households?

Answer

The States have debated propositions in relation to income support in 2004, 2005, 2006 and 2007. An RC was also published in 2004. The income support proposals have been subject to in-depth scrutiny analysis including two published reports SR 5/2006 and SR 17/2007. Public consultation has been undertaken. There are references to the replacement of disability benefits in all public documentation and each of the above States debates.

Question

- (h) In P.90/2007, Schedule 1 Part 2: Special Components B: Impairment Component, it states –

“The impairment component replaces existing non-contributory disability benefits (such as Attendance Allowance and Disability Transport Allowance) ...the fundamental principle in this benefit replacement is a move from effectively a “universal” system of benefits to a targeted “means-tested” system.... In a means-tested system there are no lump sums paid regardless of income and instead benefit decreases from a maximum figure as income rises until no benefit is received at all.”

Will the Minister clearly set out for members the income levels over which the means test operates and the deduction rate applied in the case of –

- (i) a couple where one person is on attendance allowance and the other is in receipt of carers allowance;
- (ii) a couple where one person is caring for a child with disability in receipt of attendance allowance?

Answer

Members will be well aware that income support provides targeted benefit to low income families dependent on their income, rent and other personal circumstances. There are no fixed income levels. However, to illustrate the level of support that is available here are two examples. In both cases, a household with high personal care needs is compared with a household with no additional care needs.

1. Married couple, living in one bedroom states flat:

Household A. One individual is disabled and receives the level 3 personal care component

The partner cares for the disabled person.

Household B. The same married couple but without high personal care needs

	Household A	Household B
Income support components		
Accommodation	143.50	143.50
Adult component	167.16	167.16
Household component	42.84	42.84
Personal-care level 3 component	122.85	
Carer component	41.79	
Total Components	518.14	353.50
Income support benefit calculation		
Total components	518.14	353.50
IS benefit payable	518.14	353.50

This represents the maximum Income Support payable.

2. Married couple, living in a three-bedroom states house, with two children,
Household A: one child has a severe disability.

Household B: The same household but with no personal care needs

	Household A	Household B
Income support components		
Accommodation	236.81	236.81
Adult and child components	280.00	280.00
Household component	42.84	42.84
Personal-care level 3 component	122.85	
Carer component	41.79	
Income support benefit		

calculation		
Total components	724.29	559.65
IS benefit payable	724.29	559.65

As household income increases, Income Support benefit will be withdrawn until the household assessed income exceeds the Income Support components.

Question

- (i) In 2006 there were 762 recipients of attendance allowance at around £400 per month. Will the Minister inform members how many of those recipients are now in receipt of the equivalent of the personal care elements under IS and at what level of payment?"

Answer

Every individual who applied for Income Support, and previously was in receipt of attendance allowance, has been automatically allocated personal care component at level 3, with a component value of £122.85 pw, compared to a weekly value of attendance allowance of £102.63 pw. An additional component, the Carer's component (£41.79 per week) is now available to a carer looking after an individual with high personal care needs.

As members are aware, all income support households receiving income support at a rate below that of their previous benefit, are fully protected to the same level of benefit until October 2008. I gave an undertaking in the States on April 1 to produce a full report to States members on transitional benefits in May 2008 and I would like to maintain this timetable.

However, I must point out that there is an impact on officer resources which are continually diverted to answer the Deputy's questions and address the misleading claims that they make. This may lead to a delay in the production of the report on transition.

1.20 DEPUTY S. PITMAN OF ST. HELIER TO THE CHIEF MINISTER REGARDING THE COMMUNITY RELATIONS TRUST:

Question

Would the Chief Minister inform members as to the breakdown of expenditure, per year, of the Community Relations Trust since it was officially established?

Answer

The breakdown of expenditure, per year, of the Jersey Community Relations Trust since it was established is as follows:

2005	£70,851
2006	£56,089
2007	£23,461

1.21 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE RUNNING COSTS OF GREENFIELDS:

Question

“What are the weekly running costs for Greenfields?”

Answer

The new Secure Unit on the Greenfields site was opened in October 2006 at a cost of £6m.

I perhaps need to remind the Deputy that the purpose of Greenfields is to provide a high standard of care for children – children who may exhibit extremely challenging behaviour. This extremely challenging behaviour can put these children themselves at risk (from self harm), which puts other children at risk, and which puts staff at risk. To provide the appropriate level of care to children and the appropriate staffing resources to protect against harm – as well as optimising the life chances of the children residing there, the weekly ‘running costs’ of Greenfields are £15,873.00 per week when the secure unit is fully operational with eight clients residing there. This means that the weekly cost of placing a child at Greenfields is £1,984.00.

It is a mark of the success of Greenfields and the supporting range of services to children and families provided by the Children’s Executive that the new Greenfields Centre has never been fully occupied. Occupancy levels have varied since its opening in October 2006 from no child being located there to five children at the same time.

It will always be the case that in a small island community there will be considerable volatility in the numbers of children placed in such a specialist centre. When staff are not required to work in Greenfields they are deployed to other services which includes the children’s homes of Heathfields and Le Preference, the Youth Action Team and other such services. This ability to “flex” staffing in this way to meet sharp and volatile fluctuations of demand at Greenfields is good practice in a small island and a means of ensuring good value for the tax payer.

1.22 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR TO THE MINISTER FOR HOME AFFAIRS REGARDING THE USE OF FILM AND PHOTOGRAPHIC FOOTAGE OF PUBLIC EVENTS:

Question

“Would the Minister outline the policy applied by the Police when videotaping and photographing demonstrations and other public events and advise as to what use the photos and videos are put?”

Answer

The Police have an obligation to ‘maintain public safety and keep the Queen’s peace’ in all such instances, as well as to prevent and detect crime. They are required to comply with all the relevant statutes namely the Regulation of Investigatory Powers (Jersey) Law 2005, Police Procedures and Criminal Evidence (Jersey) Law 2003, and the Data Protection (Jersey) Law 2005 with regard to the collection of evidence and intelligence and then the storage, retention and dissemination of material. Thereafter the Attorney-General’s guidelines on disclosure in prosecution cases are applied. Over-riding these statutes and guidelines are the Human Rights (Jersey) Law 2000 and the European Convention on Human Rights as they apply to the right of freedom of expression, the right to a fair trial, and the right to life.

Photos and videos may be used for Intelligence Gathering and Evidential purposes in accordance with the protections afforded by the procedures set out above.

1.23 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING WAITING TIMES:

Question

“What is the timescale for patients currently awaiting neurological consultations?”

Would the Minister confirm whether waiting times in all other areas are on target and if not, why not?”

Answer

The general position concerning waiting lists is that with the exception of oral surgery, all patients are seen within a maximum of three months. This means that the vast majority of patients are seen within weeks and not months. Currently, 88% of all patients are seen within the maximum three month waiting period which is the best ever performance in our Department since the target was set to reduce waiting lists down to a bare minimum.

Currently, the focus is on outpatient waiting times to cut down further on this component of the clinical process.

All of the above work is undertaken by the Waiting List Project Board which is comprised of consultants, senior nurses and senior managers. The work specifically relates to elective surgical procedures and certain medical and diagnostic procedures. The work has now turned to reducing the waiting time in medical specialties, but medical specialties have until very recently expressly been excluded from this waiting time initiative – and all of our publicity has made this clear.

In this general context there is a six week wait for urgent referrals for a neurological consultation and a maximum of wait of six months for non-urgent consultations. Two initiatives are underway to reduce the wait in this specialty (a specialty for which there is only a single handed consultant). The first is to establish additional clinics which will be managed by a middle grade doctor – thereby alleviating the pressure on the consultant’s clinics. Secondly, my senior managers and consultants are looking to make changes in the rota system for middle grade doctors with the aim of reducing the number of cancelled clinics – cancelled clinics obviously reducing the capacity of the Department to treat and care for neurological patients.

All in all, therefore, I am very pleased with the continuing efforts to reduce waiting times even further – and particularly pleased that the medical specialties have now been included in the Waiting List Project Board’s work. It is my intention to meet with the Waiting List Project Board as part of my extended induction period. At that meeting I would wish to congratulate them on their work to date and to receive a briefing on the programme of future work.

2. Oral Questions

2.1 Connétable A.S. Crowcroft of St. Helier of the Minister for Planning and Environment regarding the decision to approve a large residential development on the headland above Portelet:

Will the Minister explain the reasons behind his decision to approve a large residential development on the headland above Portelet against the recommendation of his senior planning officers and in spite of opposition from the National Trust and other bodies?

Senator F.E. Cohen (The Minister for Planning and Environment):

Portelet had an existing consent for the same number of units. I regarded the previously approved scheme as not making the best of this wonderful site. Had an existing consent not been in place I may not have approved the application. The developer commissioned Sir Richard McCormack in partnership with a local architectural practice to design a new scheme for the site. Richard McCormack is one of Europe's leading architects and a former president of the Royal Institute of British Architects. He has been responsible for designing many award-winning buildings including the Ruskin Library at Lancaster and the Jersey Archive. The McCormack proposal at Portelet is for the same number of houses and apartments as previously approved, albeit that it has more developed space. The scheme is, in my view, of exceptional architectural competence. It is a 21st century design of the highest standard. A number of issues are still outstanding. I have not, as yet, approved 2 of the proposed houses and the architect is examining lowering the height of some of the buildings. The colour and materials used in the exterior are still to be finalised to increase local relevance. I have also required that the buildings are constructed to relevant European environmental standards. While the planning officer had recommended refusal, the department's architect stressed the exceptional quality of the architecture and supported my approval of the scheme. It is not unusual for the Panel or I to determine an application contrary to officer recommendation. Only 2 objections were received from private individuals, the only other objection was from the National Trust. This was a short 2 sentence letter but this did not emerge until the day before the hearing. This short letter raised the issue of sustainability, an issue that the planning officer advised was not relevant as the site already had a live consent. In conclusion, I am certain that this development will be exceptional and I am privileged to have had the opportunity of approving a scheme of this quality for Jersey.

2.1.1 The Connétable of St. Helier:

While I share the Minister's enthusiasm for good architecture and, indeed, St. Helier's recently working with Sir Richard McCormack on a scheme for the town area; does he not believe that residential accommodation of this size and this height is not more appropriately situated in a town area for reasons of sustainability, if not the visual impact on the precious west coast of the Island?

Senator F.E. Cohen:

No, Sir, I do not. The fact is, as I have already stated, the application had an existing live consent which I regarded to be unimpressive and not making the best of the site. The scheme, while bold and perhaps could be considered to have come from the school of brutalism, it is in fact designed specifically for the site, will be bold and imposing and I believe will be a wonderful scheme and of great benefit to the Island.

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

Will the Minister state whether we now have a new Planning Law which dictates that as long as you employ a prestigious award-winning architect you can build where you like?

Senator F.E. Cohen:

I regard the Deputy's question as rather silly. We all know that the Island has been lacking in high quality architecture for many decades. **[Approbation]** I am following a policy that encourages great architecture in the Island and I am delighted that we now, for the first time in decades, have the opportunity of buildings designed by architects of the quality of Sir Richard McCormack, Sir Michael Hopkins and, indeed, others, and I am delighted to have had the opportunity of bringing those architects to Jersey.

2.1.3 Deputy C.J. Scott Warren of St. Saviour:

Would the Minister accept that it is the location which is important, even for the most excellent architecture? The location for each building has to be right. Would he agree with that, Sir?

Senator F.E. Cohen:

I most certainly would agree with that and, as I have made clear, that had this site not had a pre-existing consent for the same number of units, the outcome of this application may have been somewhat different. But I would reiterate that the scheme was designed specifically for this seaside location by Sir Richard McCormack and I think it is wholly appropriate.

2.1.4 Deputy P.V.F. Le Claire of St. Helier:

Normally we have come to expect there to be a certain amount of planning gain when developments of this nature take place in Jersey. What planning gains will the Island expect to receive from this development?

Senator F.E. Cohen:

The specific gain, of course, is that we will have a scheme of exceptional architectural competence. I was not given a free hand in this development because very clearly there was a pre-existing consent. The current application was, in my view, a significant improvement over the pre-existing application. There is a gain in that the total development area is a little less than the existing developed area on the site.

2.1.5 Deputy G.P. Southern:

Is the Minister not aware that the site already has a prestigious award-winning architect for its design? He was God.

Senator F.E. Cohen:

It is a rather strange question from the particular Deputy.

2.1.6 Deputy A.D. Lewis of St. John:

The Minister used the words that such a development would be bold and imposing; does he really believe that in a spot such as Portelet those are descriptions that would be appropriate?

Senator F.E. Cohen:

Yes, I do. I have taken a great interest in architecture most of my life, and I believe that this scheme, as bold and imposing, is wholly appropriate for the area and as I have previously said, I am delighted to have brought such a scheme to the Island.

2.1.7 Deputy R.G. Le Hérissier of St. Saviour:

I do have a conflict as a member of the National Trust Council. Would the Minister not accept that his statement that he only received a 2-line letter the day before is slightly off-beam in that that was the time it took to reach him? That was not because of late delivery from the Trust. Would he not also accept, Sir, that there were quite legitimate concerns voiced over a long period which undoubtedly reached his ears from various Jersey heritage bodies, and that he should and would have responded to those in any event?

Senator F.E. Cohen:

It was not a 2-line letter, it was a 2-sentence letter. We are not entirely sure why the letter only emerged the day before. The National Trust seem to think they sent it some time before, the department have no record of having received it. Having said that, the copy I received was an unsigned copy the day before. It raised issues about design in very simple terms but primarily it raised the issue of sustainability, which is, as I have said, was not relevant as there was a pre-existing consent. I have repeatedly asked the National Trust and other heritage bodies to engage

with the department at the earliest stages of an application rather than at the end, and I must urge them again to do the same. I have recently invited the National Trust to meet me on a monthly basis to go through applications at the beginning of the application process; it is far easier for the National Trust to have a relevant input at the initial stages of a development rather than appearing the day before an application is to be determined. It just makes it extraordinarily difficult. There were no other objections from other heritage bodies.

2.2 Deputy S. Power of St. Brelade of the Minister for Economic and Development regarding the presentation by a member of the Tourism Development Fund Advisory Panel of a grant application for an organisation with which he was closely involved in a management capacity:

Would the Minister confirm whether a panel member of the Tourism Development Fund Advisory Panel presented a grant application on 28th November 2007 for an organisation he is closely involved with in a management capacity, and if so whether this was considered appropriate and when will the minutes of that meeting be signed and posted on the Tourism Development Fund section of www.jerseytourism.com website?

Senator P.F.C. Ozouf (The Minister for Economic and Development):

In 2007 an application was discussed then submitted by the Bosdet Foundation - a not for profit organisation - in respect of a creation of an adventure park. The board member is a member of the T.D.F. (Tourism Development Fund) Advisory Panel and declared the interest in papers in the department at that time. On 28th November 2007 the Panel member presented the application for the preparatory work to be carried out on the site. I am advised that the member offered to leave the room while the decision was discussed but the chairman felt that this was not necessary as the Panel were minded to approve the funding of the project. When this was brought to my attention, I took the opportunity of meeting with the Panel members in order that they could strengthen the procedures that they have in place for declarations of interest at meetings. I directed the Panel that no Panel member should take any part whatsoever in any of the discussions of the deliberations in an application that they may be part of. This instruction is clearly minuted in the T.D.F. Advisory Panel minute of 9th April which I attended. Notwithstanding this issue, I must tell Members that I have reviewed the application myself and it has my 110 per cent full support. I have total confidence in the T.D.F. Advisory Panel, I shall shortly be presenting their annual report for 2007 to Members in coming weeks and Members can see for themselves the quality of the deliberations and the decisions of the Panel. In respect of the minutes themselves, I understand from the chairman that the minutes of the meeting of 28th November 2007, and those of 9th April will be signed by the chairman of the T.D.F. Advisory Panel at their next meeting which is 6th June. In the meantime, if any Members wish to see those minutes they may attend upon the Greffe to review them.

2.2.1 Deputy S. Power:

Can I ask the Minister 2 follow up questions please? Has the Minister decided to review guidelines for Tourism Development Fund Advisory Panel members in the light of what has happened and are there specific guidelines for conflict of interest? My second question: is it normal for a Tourism Development Fund Advisory Panel meeting to have to wait 7 or 8 months, as he has just referred to, for them to be posted on the tourism website?

Senator P.F.C. Ozouf:

The guidelines, I have been very clear, the chairman at their first meeting clearly indicated to Panel members that they should uphold the highest levels of standards in relation to their meetings. Indeed, I believe the Panel did. I think that there is a disconnect perhaps between the declaration of interest that was made or not made at the meeting. But I know that the Panel member was

extremely sensitive to this issue, and discussed the matter with the executive officer prior to that. There could have been no doubt that the executive officer and the other board members knew exactly what the T.D.F. Advisory Panel member action was. I have suggested that for the avoidance of any doubt it is probably better that a Panel member that may have an interest in an application, even though it is a not for profit organisation, absolutely takes no part in the determination at all. I regard that as a strengthening of the procedures and I do not think that it is necessary for me to criticise the activities. Is a strengthening of them. In respect of that... I am afraid I did not catch the second question.

The Deputy Bailiff:

The period for the minutes.

Senator P.F.C. Ozouf:

In respect of the minutes, no, the Panel meets up relatively infrequently, and it is quite normal that the minutes would be signed at a subsequent meeting. The Deputy knows the minutes because he has read the draft minutes. They were draft minutes and they will be finalised at the meeting of 6th June.

2.2.2 Deputy P.V.F. Le Claire:

Recently I offered Scrutiny an option of saving money and promoting the newsletter in a different way, in a way that would save money and have a wider circulation and a more interesting way, in my view. I offered to do this as part of my involvement and I was instructed that it would not be appropriate for me to do so. Now, where is the parallel where it is not appropriate for a States Member to offer services, whether they are in deliberation of that decision or not as adjudicated by the mechanisms of this Assembly, yet it is totally okay to spend taxpayers' money if one puts it out to a quango. Is there going to be one rule for subdivided bodies that manage public money and another for us?

Senator P.F.C. Ozouf:

May I first of all say that there have been on internet sites some dubious quality information put on from time to time: there have been some incredibly scurrilous things said about in respect of the Les Ormes decision. The Les Ormes decision is a fantastic one. It is a fantastic...

Deputy P.V.F. Le Claire:

That is not my question, Sir.

The Deputy Bailiff:

Please confine yourself to the question.

Senator P.F.C. Ozouf:

But there is imputing the reputations of some of the individuals.

The Deputy Bailiff:

No, confine yourself to the question please, Minister.

Senator P.F.C. Ozouf:

The issue is that there are, of course, the same standards and I have directed the Panel to engage in some strengthening of their standards and there is no different from any other issue. I regard the decision-making arrangements of the T.D.F. that should be exactly the same issue as whether they be the Planning Applications Panel or me sitting as a Regulations of Undertaking regulator. They should be the same, they are the same; I have full confidence in the Panel.

2.2.3 Deputy P.V.F. Le Claire:

Am I then wrongly informed that I cannot propose anything for our Panel in that regard? Is the Senator saying the rules that apply to the Tourism Development Fund and other bodies are such that it would be perfectly okay for Members of this Assembly to propose to their own Panels and Ministries opportunities to improve services even though they have a vested interest?

Senator P.F.C. Ozouf:

There must be the appearance of absolutely probity in relation to decisions, and certainly when making important decisions using taxpayers' money. I judge that it is best to direct the Panel that if there is an application at which a member... and which there are numerous other occasions where a Panel member has declared an interest and withdrawn and not taken part. I saw an adjacent decision that the Panel made in respect of the aero club where a Panel member declared an interest. That is exactly how it should be. I have directed the Panel that where an application is made in respect of an organisation that they may be part of I would prefer them, I have directed them, that they should take no part in the application process or the determination. That puts them beyond any form of criticism, but I would issue the statement that I have full confidence in this decision and it was a great decision, and a great thing for tourism and Islanders.

2.2.4 Deputy of St. John:

I must commend the Minister for supporting such initiatives to improve the tourism product, Sir, however I wonder if he could advise the House as to how many other successful bids there were in 2007, and what the balance of the Fund currently stands at? If he cannot tell me that today, that is fine.

The Deputy Bailiff:

I am sorry, Deputy, I think that is a little unrelated to the purposes of the question which was about declarations of interest. Final question from Deputy Power.

2.2.5 Deputy S. Power:

Could I bring the Minister back to the posting of the minutes of the Tourism Development Fund Advisory Panel? Looking at the tourism website, the Tourism Development Fund Advisory Panel tends to meet 3 or 4 times a year. Assuming it is 4 times a year, that is about every 12 weeks. The Minister is now saying that the minutes of 27th November 2007 will not be posted until after the meeting of 6th June 2008. Does the Minister think that this is an appropriate amount of time to wait?

Senator P.F.C. Ozouf:

The minutes were discussed by Panel members, as I understand it, in respect of this issue of declaration of interest. They were discussed at the last meeting. I do not know whether any changes have been made, and they will be signed at the next meeting. In fact, I will ask the chairman, if it is of comfort to the Deputy, in order to sign the minutes earlier on. But he is seeking to make a point which is an administrative point about putting things on minutes, an attempt, I think, to suggest that there is something improper going on, and there is absolutely nothing at all improper going on. He knows that. He has seen the minutes and it was a great decision and I wish he would say so.

Deputy S. Power:

I am not suggesting anything improper, Sir.

2.3 Deputy of St. John of the Minister for Treasury and Resources regarding the management of the asset values and future return expectations of the Strategic Reserve:

Given recent market turbulence, would the Minister advise as to how frequently the asset values and future expectations of the Strategic Reserve are reviewed in terms of risk and reward and how appropriate diversification of risk is maintained, and the process by which the best possible investment managers are selected?

Senator T.A. Le Sueur (The Minister for Treasury and Resources):

Strategic Reserve valuations are received on a monthly basis but can be requested at any date. The investment markets and the Reserve's managers are monitored on a continuous basis. Investment strategy includes diversification of assets and is generally reviewed on a 6-monthly basis but may be amended at any time in response to market conditions. Investment managers are selected by the Minister for Treasury and Resources following receipt of expert advice from our independent advisers.

2.3.1 Deputy of St. John:

Is the Minister content with the current return on the investment and what is the average rate of annual growth on the current investment, Sir?

Senator T.A. Le Sueur:

Yes, I am content with the return. It varies from year to year in the region of just under 6 per cent at the current time. We are not there to take a high risk profile. It is there for strategic long term purposes and I am satisfied that they have reached our current objectives.

2.3.2 Deputy D.W. Mezbourian of St. Lawrence:

I understand that in June 2007 the Minister was recommended to pursue the implementation of ethical investment policy through corporate governance measures rather than the adoption of prescriptive investment rules that specifically exclude certain investments. Will the Minister advise the House what his response was to that policy recommendation?

Senator T.A. Le Sueur:

I published a response to the question of ethical investment some time ago; that policy remains in force. As always the difficulty in the detail is deciding where and on what criteria we judge an investment to be ethical or unethical.

2.3.3 Deputy P.V.F. Le Claire:

I have had some experience about receiving investment management reports from the Public Employees Contributory Retirement Scheme and on a regular basis those reports are submitted to the Committee of Management. Would these investment reports from this particular strategic reserve where the money from taxpayers is invested and managed, and the amount of money that it costs to manage that, be available to members on a regular basis to have oversight of or posted where the public can have oversight of so that where it does show quite specifically, as in the investments of the Public Employees Contributory Retirement Scheme that, for example, they are investing heavily in tobacco companies, that we could then question that policy and have account of the money that is invested on behalf of the taxpayer?

Senator T.A. Le Sueur:

I see no reason at the moment why investment information should not be published. Certainly one of the objectives I would have would be that the States annual accounts would show these figures in more detail. In terms of questioning a policy, I would hate to think that the States set itself up as investment advisers and managers. We have professionals employed to do that. But certainly if Members wish to question items within that Fund I would be happy to try to answer them.

2.3.4 Deputy S.C. Ferguson of St. Brelade:

Would the Minister like to confirm that the 6 per cent is the total of the income and the capital return, or is it purely the income return?

Senator T.A. Le Sueur:

That was the gross year containing income and capital.

2.3.5 Deputy of St. John:

Mr. Dixon, chairman of the States new Fiscal Policy Panel recently told an audience of local directors that it was rare for a jurisdiction to have both a stability fund and a strategic reserve. Does the Minister concur that the implication here is that we are pursuing a particularly cautious and conservative policy?

Senator T.A. Le Sueur:

The policy for the Strategic Reserve has traditionally been one of caution on the basis that a strategic reserve is likely to be called upon in the event of an international catastrophe. At that time equity markets are likely to be far more volatile and therefore at a greater risk. But the investment strategy, as I say, is reviewed on an ongoing basis and in recent times we have been more relaxed about investing a greater proportion of the fund in equities.

The Deputy Bailiff:

Before moving on to the next question I would like to just take a moment to advise Members that the Honourable Don Harwin, a member for New South Wales, is in the Chamber. I am sorry I did not welcome you earlier but I was not aware he had arrived quite so promptly. I am sure Members would like to welcome him to watch our proceedings. [Approbation]

2.4 Deputy S. Pitman of St. Helier of the Minister for Education, Sport and Culture regarding the affordability of school uniform requirements in Island schools:

What work, if any, has the Minister for Education, Sport and Culture undertaken to ensure that uniform requirements in the Island at schools are affordable?

Senator M.E. Vibert (The Minister for Education, Sport and Culture):

My department is always mindful of the need to ensure parents are able to afford uniform requirements. Schools direct parents towards local low-cost outlets for many of the necessary items of uniform. Parents also have the opportunity to shop online for these. Where specific items of uniform include a school crest - for example, blazers or jumpers - Island schools shop around both on and off-Island in buying bulk in order to get the best value for money for parents. No profit is made on the sale of these items. Parents of school children experiencing financial hardship do receive assistance from the Education Welfare Service in purchasing a school uniform. Any parents with concern should speak to either their children's school or the Education Welfare Service.

2.4.1 Deputy S. Pitman:

I am aware that the assistance the department offers to parents is only to secondary school uniforms; will the Minister consider opening this up to primary school uniforms?

Senator M.E. Vibert:

Yes, Sir. Presently the main help from the Education Welfare office is the transition from primary to secondary school which is quite often the most expensive time, when a list of secondary school uniforms are made available and 35 families were helped in 2007. Schools - primary schools in particular - have various ways in which they try to help families who approach them but, yes, I will

look at whether we should extend what is currently happening and whether there is a better way of doing it.

2.4.2 Deputy S.C. Ferguson:

When I was at school and when my son was at school there were flourishing second-hand uniform facilities at the schools. What steps is the Minister taking to make sure that those are available?

Senator M.E. Vibert:

Some schools still operate second hand-uniform stores. Unfortunately - or fortunately depending which way one looks at it - there is less of a demand these days and most parents purchasing seem to purchase new uniform requirements, but there are, in a number of schools, second hand uniform shops.

2.4.3 Deputy G.P. Southern:

Will the Minister agree to publish a list of the range of costs of school uniforms in our schools and, in particular, with a view that Members should know how much G.S.T. (Goods and Services Tax) is likely paid on such uniforms.

Senator M.E. Vibert:

I will consider it, Sir.

2.4.4 Deputy J.A. Martin of St. Helier:

I think I heard the Minister say that there is no profit made by any of the schools. I find this difficult because obviously purchasing children's clothing I would say most of the... Just as an example, Sir, jumpers purchased without the crest: the quality of the jumper I could probably buy anywhere for about £6 and the schools. When you get the crest put on is normally roundabout £18 to £20. So someone, somewhere, is making a profit and it may be our schools or whoever is purchasing is not doing the best job possible.

The Deputy Bailiff:

So the question, Deputy?

Deputy J.A. Martin:

Could the Minister make sure that he looks at it from the top and where somebody is making a profit on, as I say, sometimes unsuitable or not very good quality clothes, just because it has to have a crest on it?

Senator M.E. Vibert:

It is certainly true that having a crest embroidered on an item increases the cost because it is a smaller number of specialist items. The last information I had, which was in December 2007, an example of a primary school, and for example a light blue polo shirt with embroidered emblem was £9.50 and a school sweatshirt with embroidered emblem was £12.95. The example I give is to show that though you may be able to buy a cheaper ones without the embroidered emblem, the embroidered emblem does not add significantly to the cost. In that sense, I think those are manageable costs and we will endeavour to help anyone who is experiencing financial hardship. The feedback we generally receive from parents is they appreciate and value having uniforms in this way with crests on, it helps identify and it also, for many parents, does away with the difficulty of children wanting to have the very latest in fashions to wear to school when there is a uniform to wear instead.

2.4.5 Deputy S. Pitman:

How many parents does the department help with the cost of uniforms and also the Minister talked about helping parents who are in financial hardship; what level of income do parents have to be on before they can access help by the department?

Senator M.E. Vibert:

Perhaps I am not the only one with trouble hearing as I answered the first part of the question just a couple of minutes ago in reply, which was that 35 families, I repeat, were helped in 2007 with secondary school uniform requirements. Applications from parents are treated on an individual basis, depending on how many children they have got and so on. But, I will endeavour to find out more detail; if the Deputy wishes to put her question in writing to the department we will answer it in full as much as we can.

2.5 Deputy G.P. Southern of the Minister for Social Security regarding the exclusion of utility bills from special payments for those on Income Support:

Will the Minister inform Members whether utility bills are excluded from special payments for those on income support and, if so, what justification can he offer for this exclusion?

Senator P.F. Routier (The Minister for Social Security):

The components that make up the regular weekly income support benefit already cover the cost of utility bills. In addition, income support provides for winter fuel payments to pensioners, families with young children and individuals with high personal care needs. There is therefore no need for special payments to be used to meet utility bills.

2.5.1 Deputy G.P. Southern:

Can the Minister inform Members in which of the components the provision for utility bills is made, and can he say whether anyone having hardship with meeting a utility bill in winter months and ineligible because not being a pensioner or not being a household, where do they turn to if they are faced with a relatively large bill which they cannot immediately afford?

Senator P.F. Routier:

The amount of money for ordinary weekly amounts of money which people spend comes within the ordinary adult component. That is where the money would be found to pay that bill. I recognise that some people do have a difficulty with budgeting for bills which come on a quarterly basis or whatever, but the utility companies do have systems which enable people to budget for that. If there is a need for somebody to have additional help my department can help them budget across a number of weeks to help them to meet that. Also, the Parishes do still continue to offer cash payments to assist them in budgeting. I mean, we do have a number of Parishes who do manage cash payments for some individuals.

2.5.2 Deputy G.P. Southern:

If I may, Sir, a supplementary: so a person who finds themselves with a larger than expected utility bill in the winter for the heating and who is faced with a choice of either turning off their heating and becoming ill will not be paid by... is completely ineligible to claim for such a payment out of social security but instead is supposed to go along - and I see some Constables shaking their heads - to welfare to claim a cash payment. Is that the case? Is that what he said?

Senator P.F. Routier:

That is not what I said, no. What I was identifying was that the Parishes and my department both help people on a weekly basis to manage their funds. We do that... the point is that utility bills are covered within the weekly payment which is made to people. On top of that, pensioners, families with young children and people with high impairment component do receive an additional payment

for additional costs for fuel bills during the winter months. I think the Deputy will be aware that when we debated the income support proposals, he is very aware of what was in the special payments because the...

The Deputy Bailiff:

I am sorry, I think that is getting a little long that answer.

2.5.3 Deputy G.P. Southern:

If I may have a final supplementary, Sir. Is the Minister aware that in previous times under the old welfare system, the safety net would, on occasion, meet a sudden unexpected high utility bill from Parish welfare and if people did go to welfare they could receive some payment, that has now stopped. Is that what the Minister is saying?

Senator P.F. Routier:

I am very well aware the Parishes used to pay one-off utility bills for some people. That was in the case in general terms when people would ordinarily qualify for quite a low level of welfare on a regular basis. The Parishes used to have a mechanism which would say: "Well, we will not pay you so much a week, come along when you have a utility bill and we will pay that for you." So what we have done with the new system is to ensure that those people who the Parishes were helping... the Deputy is laughing, I am not quite sure why.

The Deputy Bailiff:

I would not worry about that. Just carry on with your answer.

Deputy G.P. Southern:

I am seeing Constables shaking their heads still.

Senator P.F. Routier:

Anybody that used to receive those sort of payments and that have been made aware to us, because we were not aware that there was not any sort of formal recognition within the Parish systems when people moved over to us about this, we have put in place a regular payment for any of those individuals to have a small amount of weekly payment, and we will assist them in budgeting for those utility bills.

2.6 Deputy R.G. Le Hérissier of the Minister for Transport and Technical Services regarding the extension of the current contract of Connex to provide Public Transport Services:

Will the Minister be extending the current contract of Connex to provide public transport services or will he be going to public tender?

Deputy G.W.J. de Faye of St. Helier (The Minister for Transport and Technical Services):

First of all, may I refer the Deputy to an answer I gave in written questions, and written questions page 4 is very similar to this. The Deputy I am sure will note that the current contract with Connex is due to expire in September 2009. There are, within that contract, provisions to extend it up to a maximum period of 3 years. But in all circumstances I need to assure the Deputy and the Assembly that whether the contract is extended or not, the outcome will be that it will go to public tender in all circumstances. As it happens, I am currently considering extending the existing contract and I am doing so, hopefully, with the advice of the Scrutiny Panel, to whom I sent a copy of the contract, they have recently asked for some further information which Transport and Technical Services Department will supply and, in due course, I intend to bring notification of my decision to the Assembly.

2.6.1 Deputy R.G. Le Hérissier:

Would the Minister clarify; when he says irrespective of what happens it will be going out to tender, what precisely does he mean by that?

Deputy G.W.J. de Faye:

What I mean precisely, Sir, is that at some stage either as at September 2009 or within a maximum time period of 3 years the existing contract will cease and the contract for provision of public network bus services will go out to tender for a new service operator and should the existing service operator happen to win that particular tender process then the current operator would continue.

2.6.2 Deputy C.J. Scott Warren:

Could the Minister please explain to Members the advantage that he obviously seems to perceive of continuing to employ Connex for 3 further years without the competitive tender process and to decide whether they continue or not?

Deputy G.W.J. de Faye:

I think one of the most obvious advantages is that Connex very recently won the Business Enterprise Award of the Year for the whole of the Island. That is one of a number of advantages. I have reams of entirely successful year on year passenger figures and fare revenue figures, and I would be happy to share those with the Deputy.

2.6.3 Deputy R.G. Le Hérissier:

Would the Minister confirm that he is totally happy with the contract upon which all the risk-bearing rests upon the States and none of which rests, it appears, upon the operator?

Deputy G.W.J. de Faye:

I had no part in the drawing up of this contract which was dealt with by States Members who preceded me, and I am not a signatory of it. The manner of operation of the contract is clearly a variation on how previous operations were conducted. I have taken advice at a very high level of expertise on whether this type of contract is satisfactory in general, and whether this particular contract specifically is a satisfactory type of contract, and I am satisfied that it is.

The Deputy Bailiff:

I am sorry, I did say final question, Deputy. We have a lot of questions so I think one needs to keep a sense of proportion on each issue.

2.7 Deputy S. Power of the Minister for Home Affairs regarding the appropriateness of a statement made by the Deputy Chief of Police on 23rd February 2008 in relation to the Haut de la Garenne historic child abuse investigation:

Given that the States of Jersey police have confirmed that the fragment of skull found at Haut de la Garenne is possibly over 50 years old, would the Minister now agree that the statement made by the Deputy Chief of Police on 23rd February 2008 referring to finding what appeared to be the partial remains of a child was an inappropriate summary of the situation at that time?

Senator W. Kinnard (The Minister for Home Affairs):

The statement made about the fragment of skull on 23rd February 2008 was accurate. It was and continues to be the partial remains of a child. The police have always maintained that they did not know when, where or how the person died. The fact that it was not proved possible to date the fragment of skull does not change the fact of what it was, nor does it remove the possibility that he or she died of foul play. As a general point, as this is still an ongoing investigation, with information disclosed to the police not in the public domain, it will remain premature to judge the

content of police media statements until the investigation is concluded. Sir, I asked for an independent specialist review team from A.C.P.O. (Associate of Chief Police Officers) to review the investigation so far and they undertook the first review from 29th February to 2nd March, and they have just undertaken a second review. I have seen their report and received a personal briefing and, as a result, I am reassured that the correct approach is being adopted. The fact remains that the piece of skull was found in suspicious circumstances in a building where a number of other objects have been found to corroborate extremely serious allegations. It is too soon, Sir, for Members to judge while the investigation continues. **[Approbation]**

2.7.1 Deputy S. Power:

Might I ask the Minister a follow up question on this? Does the Minister know how the Deputy Chief of Police decided on or before 23rd February that this bone fragment was the remains of a child?

Senator W. Kinnard:

I do not know the exact workings of the mind of the Deputy Chief, so I cannot answer that question.

2.7.2 Senator S. Syvret:

Would the Minister agree with me, that the age of the fragment is largely an irrelevancy? If it is the remains of a child who died possibly in suspicious circumstances, 60, 70, 80 years ago, that is still a matter we should be deeply concerned about?

Senator W. Kinnard:

I would agree with that statement, but I must just say, this is an ongoing investigation. There are still matters still coming to light and I think it is far too early for Members to seek to judge at this time.

2.7.3 Senator J.L. Perchard:

The police forensics scientists working at Haut de la Garenne identified in February of this year that the bone fragment was human remains; is the Minister able to advise Members if the piece of skull found has been confirmed as human remains in a laboratory environment?

Senator W. Kinnard:

I believe that it has, but I think it is very important that we do not try and get drawn on the details of this. This is still a live ongoing investigation and I urge Members to be sensible and realise that there is an awful lot more to go where this matter is concerned.

2.7.4 Deputy J.B. Fox of St. Helier:

I wonder if the Minister could just expand on the words “possibility of foul play”? Is there anything further she can enlighten this House on, on that particular statement?

Senator W. Kinnard:

No, Sir, I think it is not appropriate for me to be drawn on such details.

2.7.5 Deputy A.J.H. Maclean of St. Helier:

I wondered if the Minister might be kind and just confirm whether or not the review that she has referred to will be released to either States Members or, indeed, publicly at some point in the future?

Senator W. Kinnard:

No, Sir, it is an internal document which is obviously for my eyes as the Minister, but it is not something that would be appropriate, given the contents of the document, to be circulated in a public domain.

2.7.6 Deputy C.J. Scott Warren:

Does the Minister agree that the less the very detailed information regarding this ongoing investigation by the police is discussed in the States Assembly, the better the future ongoing proceedings in a court will not be prejudiced and that they will be able to have fair trials without the risk of any prosecutions having to be dropped because too much information has come out previously?

Senator W. Kinnard:

Yes, Sir.

2.8 Deputy R.G. Le Hérissier of the Minister for Planning and Environment regarding measures to improve the way in which applications for large projects are handled:

Will the Minister identify what measures, if any, he is planning to introduce to improve the way in which applications for large projects are handled?

Senator F.E. Cohen (The Minister for Planning and Environment):

Islanders rightly have a poor regard for our large building built environment. I have sought to change this to improve the process and to promote an interest in delivering large buildings of exceptional architectural quality. This, of course, has to be complemented by the higher standards of construction. The policy, in my view, is already succeeding and we now have a number of internationally renowned architects working on large projects in the Island, some in partnership with local architectural practices. We have seen a significant improvement in the standard of proposals. I am employing a number of tools to ensure that we deliver better large projects. The first was a requirement to produce physical models. This simple and essential tool was extraordinarily absent from planning requirements when I was appointed. I have also issued a variety of Ministerial design guidance notes and will shortly be releasing a Jersey Design Guide. I established a design review group to assess schemes and to promote an interest in architecture within the department. I established a key post of a qualified department architect. These measures ensure that architecture of new larger buildings is now properly assessed. The process is cumulative and this week a note will be issued requiring that new large commercial buildings must incorporate the mechanical engineering plant within the design of the building. This will put an end to the proliferation of ugly roofscapes littered with plant and machinery. I am complementing architectural measures with requirements for new buildings to be of the highest environmental standards. In the case of the very largest applications, I will be using the new system of public planning inquiry, the first of which will likely be the Waterfront.

2.8.1 Deputy R.G. Le Hérissier:

Would the Minister not acknowledge in the case of a project like the Les Ormes Adventure Park, that what was missing there were not various architectural advice, for which he has to be praised I should add, but environmental advice; and similarly what was missing at Portelet, despite the attempt to place the blame sadly upon the National Trust, was a call for broader contextual advice about the environmental, the landscape, and the special impact of projects like that?

Senator F.E. Cohen:

I was certainly not seeking to blame the National Trust. I hold the National Trust in the very highest regard. The point I was trying to make was that it would be helpful if they entered the planning process at the front end rather than at the back end, that was the point I wanted to make.

Les Ormes I did not consider, as I have said before, to be a large application. It was presented to me on the basis of being a small application and I gave it the consideration that was appropriate based on the documentation I had. I would most certainly have benefited from additional information, however that does not mean that the decision would have been in any way different.

2.8.2 Deputy R.G. Le Hérissier:

Would the Minister who famously and courageously said that he had too much unfettered power; is he bringing proposals forward to limit his power or to share it with others of a similar ilk?

Senator F.E. Cohen:

I never said that I thought I had too much power. What I said was that I wondered when States Members established Ministerial government whether they considered how much power they were placing in the hands of one person in terms of the planning application process. I do not have any current plans to fetter my powers, but may consider that in the future.

2.9 Connétable D.J. Murphy of Grouville of the Minister for Planning and Environment regarding the advancement of tidal power technology:

Following his speech to the Chamber of Commerce by Mr. Liston and demands from Members of this Assembly over the past 2 years; will the Minister now put in place a plan to take advantage of the opportunities being offered by the advance of technology in tidal power, as shown by the Alderney Group?

Senator F.E. Cohen (The Minister for Planning and Environment):

The energy policy Green Paper went out to public consultation at the end of last year. A study supporting that paper highlighted the feasibility of offering Jersey as a destination for research development in tidal stream technologies. However, the physical tidal stream conditions around Alderney are significantly better than those around Jersey and thus, we will likely be second choice as a location for tidal stream research and development. However, once technologies and funding develop, we do have a considerable resource to produce power from these renewable energy sources. In the Green Paper, it was proposed that Jersey should offer to be a test bed for emerging technologies such as tidal stream. The States will soon have the opportunity to debate this as part of the energy White Paper. The White Paper proposals include facilitating inward investment by examining and identifying potential sites for installations, taking into account environmental climatological and human factors, carrying out seabed surveys and putting enabling provisions in place, for example, seabed rights, accessing the market place and identifying investors. However, I have had discussions with the recently retired chief scientific adviser to the U.K. Government who advised that technologies were embryonic and Jersey could be well advised to wait for technologies to develop before we invest public money in tidal stream power generation.

2.9.1 The Connétable of Grouville:

I have indeed read the development of the energy policy which deals with tidal power, all 2 pages out of 200. When I approached the department, I was told that ongoing moves would be made towards ordinary real energy. I know nothing has happened there and, in fact, I think to follow up part of Mr. Liston's speech, the benefits and the development work that has been taken in the Northern Islands, including Sark, I might add, he said all that happened without our government noticing, never mind leading an energy strategy. Would the Minister please incentivise his department to get rid of the climate of negativity which seems to exist there with regard to tidal power? We have an infinite resource running past these Islands 4 times a day and I do understand that the technology must be right but why are we not involved in the Alderney job already, together with Guernsey who already have a shareholding in that project?

Senator F.E. Cohen:

I am not entirely sure what the question is, but the Constable has a very clear and longstanding interest in this area. I think perhaps the best way forward would be that I invite the Constable to participate in bringing forward appropriate measures with the department. I will shortly arrange a meeting with the Director of Environment and progress the matter, hopefully including the Connétable to ensure that he is satisfied that we are doing everything necessary to promote the use of tidal stream technologies.

2.9.2 Deputy P.V.F. Le Claire:

From a standing effect that the energy policy is out for consultation, time and tide wait for no man, as they say. The Environment Scrutiny Panel recently has visited the United Kingdom at a tidal energy conference and was pleased to receive encouragement from those people involved in putting schemes into the water at the moment that do not require any States funding that they would be more than willing to come to Jersey and trial their equipment and get involved with Jersey in accessing one of the greatest energy resources and one of the most ecologically friendly energy resources there is on the planet. What is needed is a more pro-active approach. Will the Minister please take steps not to arrange meetings but develop a group or a system that will take forward these measures and provide us with the opportunity to engage in this important and exciting new industry?

Senator F.E. Cohen:

I am afraid that we do have to start with meetings. Very clearly, there are a number of States Members who have a particular interest in progressing this matter. I am very happy to progress it as quickly as possible. We do have to be realistic, but I think the best thing to do is to start with an invitation to the Connétable of Grouville and, indeed, the Deputy and any others who are interested to meet with the Director of Environment and discuss the best way forward.

2.9.3 Senator S. Syvret:

Could the Minister just remind us how long the Green Paper has been published for and inform the Assembly how many detailed written critiques or submissions he has received on it from the Constable of Grouville?

Senator F.E. Cohen:

I am afraid I do not have that information to hand. I will distribute the information later today to all Members.

2.9.4 Deputy P.V.F. Le Claire:

In a number of meetings on this topic, in speaking with companies that are interested in Jersey, they have indicated they would be interested looking at schemes with the knowledge of the tidal flows and currents, ebbs, *et cetera*, the hydrology report. I understand from a previous meeting that the company, AEA had provided hydrology reports to the States of Jersey. Would the Minister please furnish those to myself and the Constable and the Environment Scrutiny Panel if he is able to ascertain where they are?

Senator F.E. Cohen:

I am not aware of the particular reports to which the Deputy is referring but he is welcome to have access to this information if it exists, and to any other in relation to this particular subject.

2.10 Deputy P.V.F. Le Claire of the Chief Minister regarding the policy pertaining to the residency status of new European Union accession country citizens working in the Island:

Following my question on 1st April 2008, would the Chief Minister advise whether the period of time that the new European Union accession country citizens work on the Island under a permit scheme will count towards the 5-year residency requirement for open employment and, if not, would he outline the current accepted policy, please?

Senator F.H. Walker (The Chief Minister):

Unless they qualify through a relationship with a locally qualified person or by obtaining housing qualifications, a person must be ordinarily resident during the whole of the period of 5 years immediately preceding the start of the engagement in order to be locally qualified for regulation of undertaking purposes. This could include time spent on a work permit.

2.10.1 Deputy P.V.F. Le Claire:

So that is quite a statement really. It might slip past most Members' attention that what the Chief Minister is now saying is that people that have been ordinarily resident who could be on a work permit will be able to, within a 5-year period, access the ordinary jobs that most people in Jersey have been protected from and for over the last few years. This means that the vast majority of people who have come from Poland, who have been ordinarily resident for that period of time, will now be able to access the jobs in all sectors of the Island's economy. Does the Chief Minister know how many people we are speaking about and at what point this year - because I believe it is in a matter of weeks - that those people will be able to have free rein to Island employment opportunities?

Senator F.H. Walker:

This is not an issue about Polish people or any other nationality. This is an issue about people who are unqualified irrespective of where they may come from and, of course, the controls are as the controls have been now for many years, and the controls are the licenses given to businesses to employ a proportion of their workforce from non-residentially qualified people. Currently, the total number of non-locally qualified positions which are licensed represents 14 per cent of the total number of jobs licensed. There is no change here. There is no additional risk to locally qualified people, to local people seeking jobs. This is as it has been now for some considerable time.

2.10.2 Deputy P.V.F. Le Claire:

I am sorry, I cannot agree with the Chief Minister. Does he not accept the fact, and I am sorry I indicated the Polish in particular, but there are a number, a large number of Polish people who have brought excellent benefits to the Island, nevertheless, a large number of people from the accession countries will very soon in the next coming weeks be able to access all forms of employment in all sectors of the Island's economy and will be able to compete at all levels. What other implications will they have? We have already been told by the Housing Minister he is not going to accept that policy. He is probably going to have to rethink that now. What other issues will there be in relation to social security that the Chief Minister is now saying: "If they have 5-year residency to work in any sector, they can then have the same rights in other sectors as well"?

Senator F.H. Walker:

As I have said, nothing has changed, so the Deputy has not got his facts quite right about certain members of the non-qualified community, and it is something I would be happy to discuss with him later, but the position has not changed and the law is as it has been for some time and there is nothing new, and nor is there any additional threat as I have already mentioned currently to that that has existed now for many years.

2.10.3 Deputy R.G. Le Hérisier:

In his original answer, the Minister mentioned that the period under a permit could be taken into account. Would he outline how this discretion is assessed by the people who make that decision?

Senator F.H. Walker:

I think I said in my answer that it is quite simple, that anyone who should be considered locally qualified has to be here for the whole of the period of 5 years immediately prior to being so registered so qualified, and that is a matter of monitoring basically.

2.10.4 Deputy P.V.F. Le Claire:

Is it not a fact that for the whole period of the time that the people from the accession countries have been accessing work permits that their continued residency, albeit a day or so while they renewed those permits, has occurred in Jersey? Their belongings never left the Island from the day they came. They had to go away to renew their permit but in not physically leaving within their property other than just to renew the permit, we are now talking about 7 to 8, possibly 10,000 extra people able to access the local workforce. I will happily meet with the Chief Minister but is he not concerned, as I am, that this represents a significant challenge in addition to the challenges the ordinary people in Jersey are now going to have to face?

Senator F.H. Walker:

I do not, and I have already made that clear. I would also point out that the figures quoted by the Deputy are wildly inaccurate and they are well over double the real figure. I do not know where he gets his figures from but, again, I am quite happy to discuss this with him and provide him with any further information he may request.

2.11 Deputy A.E. Pryke of Trinity of the Minister for Health and Social Services regarding the redeployment of the nursing team on Chevalier Ward:

Would the Minister inform this Assembly where the longstanding nursing team on Chevalier Ward is to be deployed?

Senator B.E. Shenton (The Minister for Health and Social Services):

Infection control is of high priority at the hospital and we are currently looking at a number of measures to improve this, including the refurbishment of a number of wards including the Corbiere Ward. The logistics of such a move are quite complex and spread out into a number of areas. No decisions have been made as yet as to how we are going to handle this. The short answer to the question is the Chevalier Ward's team will be deployed on the Chevalier Ward because no decisions have been made with regard to the closing of the Chevalier Ward, even on a temporary or permanent basis. It is an ongoing investigation. We are going to implement a number of changes at the hospital to improve infection control, as I said, but there is no point in talking to staff if you have made your mind up before you talk to them; so we are talking to staff, we are talking to management, we are looking at the logistics and we are going to make a decision very shortly. The short term answer is the Chevalier Ward staff will be employed on the Chevalier Ward.

2.11.1 Deputy A.E. Pryke:

I welcome any kind of increase by way of dealing with the high levels of M.R.S.A. (Methicillin-resistant Staphylococcus Aureus) in the hospital but this is a longstanding nursing team that have worked very well together and they have got a very low level of M.R.S.A. on the ward, but what I understand, Sir, is that Chevalier Ward is going to be closed and the date is 1st June. Can the Minister confirm that, please?

Senator B.E. Shenton:

Fortunately, the Deputy's information is incorrect. I am waiting for proposals to be put to me as Minister but certainly no decisions have been made as yet.

2.11.2 Deputy C.J. Scott Warren:

I would like to ask the Minister if he has an initial timeframe for the measures regarding the £2 million being spent on infection control and would he agree that *Clostridium difficile* is an even worse threat across England and to us to some extent, than M.R.S.A.?

Senator B.E. Shenton:

There was an excellent programme on Panorama on Sunday concerning how important it is to get infection control, and to deal with it in an absolute 100 per cent manner. The closure of Corbiere Ward is necessary and the talk about closing Chevalier Ward, either temporarily or permanently, was due to the fact that you have to manage the number of beds you have within the hospital and obviously, if you do close a ward, you have to move those beds somewhere else, either on a temporary or permanent basis. As I said before, we have not made any decision on that but we will be improving standards at the hospital; that is certain. We will be investing in the wards and making them a safer place with regard to the sterilisation and so on, and we will be talking to staff to make sure that everyone buys-in to what we do.

2.11.3 Deputy S.C. Ferguson:

Apart from the fact that if you are having a problem with infection, perhaps you ought to look at your cleaning methods; this is a particularly skilled surgical team which I understand has been together for some 20 years dealing with urinary problems and so on. Is it really sensible to break up a skilled team in the way that is being implied? Would it not be better to utilise them? Instead of deploying them and losing the team, why not utilise them, for instance, on the loss-making and little used private ward?

Senator B.E. Shenton:

I do not disagree with the Deputy and we are looking at every area of infection control including cleaning methods and also the way that visitors can just sort of amble in and amble out. No decisions have been made. Unfortunately, this is one of these ones where sort of a fag end has been picked up and sort of run with. As Minister, I have not signed anything off. In fact, I have not even had a full report put to me as yet, so we are a little bit premature in talking about the demise of the Chevalier Ward when certainly nothing has been decided.

2.11.4 Deputy I.J. Gorst of St. Clement:

I would just like to make it clear for the avoidance of doubt that my wife does work at the hospital, but not on any of the wards affected as I understand it. The Minister said in answer earlier to the Deputy's question that work was being carried out on a number of wards. I wonder if he could tell us that once this work has been completed, they will then be suitable for service for a number of years, perhaps 2 to 3 years, or will they perhaps require work, further work, once this initial work has been completed?

Senator B.E. Shenton:

The work will be done on a structured basis. We can only close one ward at a time, so we have to deal with one ward and then once we have refurbished that, move on to the next. It will certainly last for 2 to 3 years. One of the big changes that has happened is you need more rooms, individual rooms for patients to come in, so they can be isolated. The old days of sitting in beds next to each other so that the germs can jump from bed to bed have long gone and the whole way that the wards are laid out will change and, certainly, the investment will be that we will look for long term return on that investment.

2.11.5 Deputy R.G. Le Hérisier:

Can the Minister confirm he is looking at parallel options such as individual testing as well as more and more deep cleaning and, secondly, can he confirm the date on which he will make the announcement because of the apparent perception that the decision has been made? What is the date on which he will announce the future of Chevalier Ward?

Senator B.E. Shenton:

I cannot give an exact date but it will be fairly shortly. We are looking to start the refurbishment work on Corbiere Ward in June. The ward is currently closed and, indeed, it may even stay closed until June. There are a number of issues, not least mainly staffing issues. Staffing are probably our most important asset and as has rightly been pointed out, we have a very good team on Chevalier Ward and we have to make sure that their skills stay together, and it may be that they stay together on Chevalier Ward but certainly it will be within full consultation with all the staff. It is a little bit of a pity that it has leaked out to the media and so on. I can understand why, but we are working with the staff. We are working very much as a team at the hospital. This is not a dictate from above. We are working as a team on this.

2.11.6 Deputy R.G. Le Hérisier:

Will there be individual testing?

Senator B.E. Shenton:

It is something we have looked into. It sounds very good on paper but then when you have 3,300 employees within Health, you have to know where to draw the barriers, so again, we will come back to you on that, but the whole strategy with regard to the control of infections, it will be covered within that which will be out within a number of weeks I should think.

2.11.7 Deputy A.E. Pryke:

I am very pleased to see that the Minister acknowledges that his greatest asset is the staff. If the decision is made to close Chevalier Ward within the next couple of months, would the Minister confirm that the staff will be asked where they wish to go and also that they have a right of appeal?

Senator B.E. Shenton:

They certainly will be consulted. In fact, they wrote to me as Minister and I am due to meet with the staff fairly shortly, but I wanted to make sure that we were a little bit further down the road as to what our decision was going to be. There is no point in meeting with staff if you cannot tell them anything, so I will be meeting with the staff over the next few weeks and will have a chat with them, but certainly it is not cut and dried what will happen with Chevalier Ward at the moment.

2.12 Deputy S. Pitman of the Minister for Transport and Technical Services regarding the fitting of seatbelts on Connex buses:

Would the Minister advise whether Connex buses are now, when refurbished, required to be fitted with seat belts and if so, could he confirm whether the latest Connex buses to be refurbished were indeed fitted with seat belts?

Deputy G.W. J. de Faye (The Minister for Transport and Technical Services):

There currently is no requirement and there has never been a requirement for Connex buses to be fitted with seat belts, and I should perhaps explain to Members that that is entirely normal on the buses that are operated on frequently stopping local routes are, as a matter of practice, generally licensed to carry a specific number of seated passengers together with an additional number of loaded passengers. I realise that few Members of the Assembly take advantage of the public bus service during peak times. If they did, they would realise that if the standing facility was removed, it would create significant difficulties. In respect of the second part of the Deputy's question, I think the Deputy may be referring to the additions to the fleet that Connex brought to the Island when they were successful in being awarded the tender for the summer services and school services, and that did include 9 white Mercedes buses which had already been fitted with seat belts. They currently continue to operate but they are exclusive to school services.

2.12.1 Deputy P.V.F. Le Claire:

Given that the States Assembly has requested the Minister recently on the issue of seat belts, could he inform us as to what progress has been made in implementing rear seat belt in general in vehicles and introducing more advance safety initiatives in Jersey? Where is he with it, please?

Deputy G.W.J. de Faye:

I am nowhere with it personally. Following the States Assembly decision, I immediately notified officers in the department to progress the matter of rear seat belt law and it is being progressed.

2.12.2 Deputy J.B. Fox:

I wondered if the Minister could give some reassurance to the House that even though it is not a requirement to have seat belts, nevertheless it is a good road safety standard especially to some individuals that might have disabilities or young children, parents with young children, and I just wonder if he could not advance a policy of having at least some seats available on our buses and school buses for use by those specifically that would benefit and for those that would desire it, especially parents of very young children.

Deputy G.W.J. de Faye:

I wonder if I could ask of the Deputy, is he referring simply to the school bus service?

Deputy J.B. Fox:

I am just talking generally that if you cannot cover all the seats in the bus for the various reasons that he said, to at least have the opportunity of having some designated seats that can be used by persons so desiring.

Deputy G.W.J. de Faye:

I think that would cause some practical difficulties, and if I might outline to the Assembly the very significant problems that would be introduced by a compulsory use of seat belts on frequently stopping buses, it would simply be that in order to comply with legislation buses would have to operate in a similar way to aircraft. In other words, passengers would not be allowed to arise from their seats until the bus had come to a complete standstill and the driver was in a position to give clearance that passengers were able to undo their seat belts and alight from the bus and similarly, the bus would have to wait if passengers mounted the bus until all those passengers had been properly seated and there was an assurance that the safety belt had been properly fastened. Whether there is a requirement for the driver to check all seat belts individually as air stewards and air stewardesses do, I do not know, Sir, but I think that the Assembly can quite easily see some of the practical difficulties that may ensue.

2.12.3 Deputy J.B. Fox:

Just to go on from the last submission; buses do not travel at 30,000 feet, *et cetera*. They are on a flat, level playing field. They are very successfully used in many buses and disabled vehicles and there is and have been a lot of express wishes by parents to have some facilities if all is not available. All I am asking is that this be looked at again and to see if we cannot have improvements. I do not expect the same levels or the Minister to have to provide the same levels as aircraft; just giving people the opportunity of having some seats with seat belts above that which exist at this time.

Deputy G.W.J. de Faye:

I am, of course, aware of the ride height of buses and clearly, they do not ride at 30,000 feet. I am very grateful to the Deputy for his clarification and his further clarifications of what he was getting at and I am happy to look into the matter.

2.12.4 Deputy K.C. Lewis of St. Saviour:

It can be very dangerous if children are standing on buses loaded with rucksacks, books, *et cetera*, should the bus have to perform an emergency stop, so it would be preferential for all children to be seated on buses. Does the Minister not agree?

Deputy G.W.J. de Faye:

Yes, the Minister does agree, Sir, but I would make 2 points. First of all, that our current bus service and, indeed, previous bus services in the Island have an extremely good safety record but it has to be said, particularly in respect of children, that sometimes there is an issue of persuading them to stay in their seats.

2.12.5 Deputy C.F. Labey of Grouville:

Are there any safeguards in place to stop those passengers who are standing falling forward when the driver slams on his brakes? An awful accident happened to a parishioner of mine and her son whereby they both ended up smashing their heads on the windscreen and were hospitalised.

Deputy G.W.J. de Faye:

Broadly speaking, Sir, it is a matter of regret that from time to time, and fortunately only on extremely rare occasions, accidents do happen. Nevertheless, in respect of standing passengers, for Members who are not familiar with the layout of our buses, there are numerous grab poles down the aisle and indeed, passengers are regularly advised not to stand up close to the driver which puts them in proximity of the front windscreen. It is a general presumption that passengers will stand further back in the bus than that. However, sometimes people do come closer and, as I say, on very extreme and fortunately rare occasions, drivers do have to engage in emergency stops which have caused recorded injury.

2.13 Deputy F.J. Hill of St. Martin of the Minister for Home Affairs regarding the progress of the draft Sexual Offenders Law:

Will the Minister provide an update on the progress of the Draft Sexual Offenders Law and advise who it is proposed will be responsible for deciding who should be included on the sexual offenders' register, who will be carrying out risk assessments and how the process will be monitored?

Senator W. Kinnard (The Minister for Home Affairs):

I expect to have the final draft of the Sex Offenders Law this week. Preliminary consultation with the courts, police and probation has already been taking place. Once it has been reviewed by the Council of Ministers there will be a short general consultation period with a view to lodging the report and proposition in July for debate in September. It is perhaps more accurate to refer to persons becoming the subject to notification requirements rather than the existence of the sex offenders' register. It is the court, and most usually it will be the Royal Court, that decides on conviction of a relevant offence whether the individual should be subject to a notification requirement which will not normally be for less than 5 years. Persons subject to notification requirements will have to notify the police of their presence on the Island, their address and other requirements. Specialist public protection police officers will be preparing risk assessments and carrying out home visits to offenders. They will work closely with their colleagues in probation, the prison service, Health and Social Services as well to provide information and assessments for the courts and appropriate levels of supervision according to risk. Monitoring of the process will take several forms. Specialist trained public protection officers will carry out the sensitive and stressful work in accordance with A.C.P.O. standards. They will be supervised by higher ranking officers who will review risk levels, monitor home visits, review actions and risk management plans. Her Majesty's Inspector of Constabulary will carry out regular inspections. Other agencies will also be involved in the M.A.P.P.A. (Multi Agency Public Protection Arrangements) and risk assessment. The Chief of Police must also present an annual report to the Minister setting out the

action he has taken in assessing and managing sex offenders and there is a full appeals' process in the law.

2.13.1 The Deputy of St. Martin:

Is the Minister aware that police officers are already visiting Jersey residents even though the Sexual Offenders Law or the register is not in place? Does she not think it really rather inappropriate for officers to be calling round on people before the criteria is set?

Senator W. Kinnard:

Yes, Sir, I do. We must also be aware, of course, that the Probation Service has been involved in managing sex offenders in the community for some time and what States of Jersey Police are doing is trying to scope the level of the work that is going to be necessary when this very close, careful risk assessment is to take place. We have always had the ability on a voluntary basis for sex offenders to agree to receive supervision and so I do support every effort the police are making in this attempt to try and scope the work appropriately ahead of time, so that we are absolutely ready once the law comes into place.

2.13.2 Senator S. Syvret:

Would the Minister agree with me that simply referral upon conviction of itself is not a sufficiently comprehensive measure to ensure safety for children in society and that there are cases where people may not have been convicted, Ian Huntley, for example, who nevertheless did propose a profound and dangerous risk to children? Will the Minister undertake to ensure that any person who is found perhaps guilty of a disciplinary offence may relate to inappropriate sexual conduct or behaviours are notified to List 99?

Senator W. Kinnard:

Those matters will be dealt with in the new system that will be taking over from List 99, which is the new arrangements for the vetting and barring arrangements due on the back of the Ian Huntley situation that the Senator mentions. The Safeguarding of Vulnerable Persons Act is due to come into force in the United Kingdom in 2009 and we in Jersey have an interdepartmental working group working to ensure that we are able to link into those new arrangements when they come on board but, at present, obviously those people who are deemed to be inappropriate to work with children are, indeed, already placed on List 99 because that is the list that exists.

2.13.3 Deputy of St. Martin:

Can I thank the Minister for her answers and I do understand that it is a very delicate law we are dealing with. However, what I would ask is whether it is possible that when the papers come out for a consultation, people are given ample time between the time the law is lodged and before we debate it because, bearing in mind, there is a summer period and people are on holiday.

Senator W. Kinnard:

That is why I have said that my purposes are to lodge the proposition in July and debate in September and I would think that gives ample time for Members to review the legislation.

2.13.4 Deputy J.A. Hilton of St. Helier:

In the latest report issued, the performance report issued in the last couple of weeks, the Chief Officer talks about 26 people living in Jersey with convictions of sex offences who are considered high or very high risk offenders. Is the Minister able to assure us that these people are already being monitored in the community?

Senator W. Kinnard:

Obviously I cannot go into details but the police, when they are aware that there are individuals who are high risk in the community, do obviously keep aware of those individuals and their

whereabouts, but clearly they cannot monitor them in absolutely the close, important prescriptive way that the law sets out until we have the legislation in place, but everything that we can possibly do to ensure the safety of the community is being done.

2.14 Deputy K.C. Lewis of the Chief Minister regarding the actual population of Jersey as of March 2008:

Would the Chief Minister inform Members of the actual population of Jersey as of March 2008?

Senator F.H. Walker (The Chief Minister):

An updated estimate of Jersey's resident population is published annually by the States of Jersey Statistics Unit. This measure relates to the resident population at the end of each calendar year. The measure for year end 2007 will be published on 4th June 2008. Resident population at year end 2006, the last published figure, was 89,300.

2.14.1 Deputy K.C. Lewis:

As States Members decisions are based on figures from the Statistics Unit it is, therefore, essential that Members have an up to date figure of the population of Jersey. Does the Chief Minister not agree?

Senator F.H. Walker:

Yes, Sir, I do but there is a limit to how often that can be measured. An annual measurement is, of course, a huge improvement over the previous position where census and, therefore, any real measurement, was only possible every 5 years, so we are in a position now where we have a good accurate figure annually which, as I said, is a considerable step forward from where we used to be. It will not be possible, I do not believe, to increase the frequency from annually to what I guess the Deputy is suggesting which could, in effect, be quarterly.

2.14.2 The Deputy of Grouville:

Even the Statistics Unit recognises that they have no mechanism for monitoring people and especially local people leaving the Island. How, therefore, can the Chief Minister assume that these figures are accurate?

Senator F.H. Walker:

We have been through this on numerous occasions and I am completely satisfied that the figures the Statistics Unit produce are accurate to within a totally acceptable margin. What they measure is the change from year to year and that change is calculated from data received on births and deaths, and from annual subjects, specific censuses of education, health and employment. The figures represent a tremendous improvement from any information this House has ever had in the past.

2.14.3 The Deputy of St. John:

Between 1991 and 2005, the population increased little more than 5,000. Would the Minister agree that, bearing in mind the enormous economic growth that has occurred during this period, that such slow population growth is nothing short of an economic miracle?

Senator F.H. Walker:

I think Jersey is little short of an economic miracle at the moment. In these specific terms that the question is being asked, yes, I think I would agree with the question.

2.14.4 Deputy C.J. Scott Warren:

In the *Jersey Evening Post*, in the media - it may have been last year, it could have even been the year before - they quoted a figure with seasonal workers and tourists in the Island in the summer

months. I believe they said, they certainly said 120,000 people, they may have said as high as 125,000. Was this a wildly exaggerated estimate, Sir?

The Bailiff:

Deputy, you cannot ask, under Standing Orders, whether a report in the press or media is correct. You can rephrase the question if you like.

Deputy C.J. Scott Warren.

Does the Minister agree or disagree with that estimate?

Senator F.H. Walker:

If I understand the question correctly, the figure the Deputy is referring to included tourists at the time. What I would suggest, Sir, is that figure is unlikely to have changed significantly now for many years. It is a known fact that tourist numbers, until last year anyway, were in decline and if we go back a number of years, there were, of course, many, many more hotel beds available, so I have no idea whether that figure is accurate or not, but if it includes tourists, then I doubt very much that that figure would have gone up significantly for a very long period of time.

2.15 Deputy J.J. Huet of St. Helier of the Chairman of the Jersey Executive Branch of the Commonwealth Parliamentary Association regarding alleged complaints of bad behaviour received by the Jersey Executive Branch of the Commonwealth Parliamentary Association concerning one of the Jersey delegates attending a conference in 2007:

Will the Chairman confirm whether complaints of bad behaviour were received by the Jersey Executive Branch of the Commonwealth Parliamentary Association concerning one of the Jersey delegates attending a conference in 2007 and, if so, would he explain to Members how the Executive Committee dealt with these complaints and what action, if any, was taken against the States Member concerned?

Senator M.E. Vibert (Chairman of the Jersey Executive Branch of the C.P.A.):

The Jersey Executive Branch of the C.P.A. has received no official complaints of bad behaviour concerning any delegates attending any conference or other events in 2007 or, as far as I am aware, has ever received such a complaint.

2.15.1 Deputy J.J. Huet:

I originally wanted to ask this question of the Chief Minister as I had been told by contacts abroad that it was to him that these complaints had been directed about the drunken behaviour and sexist remarks to women parliamentarians last year and I believe this was brought up at the C.P.A. meeting this year, in January, and I believe it was agreed that this member would no longer be asked to represent us abroad. I would like to know if this is true on both those statements and did the speaker and the Chief Minister speak to the member and, if not, why not?

Senator M.E. Vibert:

I cannot answer on behalf of the Chief Minister obviously. I can inform Members that comments were made informally concerning an issue at one C.P.A. event and this was followed up with the branch concerned who did not believe there had been a problem. I regret at what could be construed as trying to use the C.P.A. in political point scoring. I have no wish for the C.P.A. to be drawn into such issues.

Deputy J.J. Huet:

I thank the Minister for his reply. Unfortunately, we do not have the answers I think we should have.

2.16 The Deputy of St. Martin of the Minister for Home Affairs regarding the impact of the rift between Customs Officers and the Police upon the amount of successful drugs seizures in 2007:

What steps, if any, has the Minister taken to heal the rift between the customs officers and police which allegedly impacted upon the amount of successful drug users last year and will she assure Members that morale among customs staff is sufficiently high to ensure that our courts shall make an efficient barrier to drug importers?

Senator W. Kinnard (The Minister for Home Affairs):

Yesterday, I met Customs and Immigration staff and this was a valuable opportunity to brief them and have a full and frank discussion. Talk of rifts is overstating the issue. Customs and Police continue to work co-operatively in the Joint Financial Crimes Unit, together at the port on importations, and of importations of pornography which might indicate paedophile activity, *et cetera*. This co-operative working did indeed carry on throughout the period of the criminal investigation. Having said that, it is true that relations have been strained by the investigation principally for those members of the J.I.B. (Joint Intelligence Bureau). The relationship is not one that will be repaired easily overnight and steps are being taken to improve matters.

3. Questions to Ministers without Notice - The Minister for Home Affairs

The Deputy Bailiff:

We come to Questions without Notice. The first question period is of the Minister for Home Affairs by the Deputy of St. Martin.

3.1 The Deputy of St. Martin:

May I ask the Minister; my question was asking what steps the Minister had taken to heal the rift? Will the Minister inform the House whether she has visited Customs and the officers to try to heal the rift and, if she has not, why has she not?

Senator W. Kinnard (The Minister for Home Affairs):

I would be delighted to answer that. I think if he listened to the beginning of my answer, I said that, in fact, yesterday, I was with Customs and Immigration staff having the opportunity to have a full and frank exchange with them. Indeed, I have personally been involved with meetings with the Attorney General, the States Chief Executive, the Chief Officer of Home Affairs, the Head of Customs and the Chief of Police regarding this issue. The matter has been complicated by the fact that I am Minister for both enforcement departments and, indeed, the main interface with the Police. That is why it was agreed at the start that the Assistant Minister, who has delegated responsibility for Customs, should provide any necessary support until the appropriate time and, having now had the benefit of discussions with the Attorney General, the time is now apposite and I have proposed a plan with 3 parts - an action plan. The first part is the personal involvement of the Attorney General and the States Chief Executive in putting arrangements in place which will repair relationships between Customs and States of Jersey Police cascaded down through appropriate levels of staff, and I have been involved in developing this process with the agreement and participation of senior officers from both Customs and States of Jersey Police, a number of joint meetings between officers involved in operations on detailed tactical issues in the investigation of drug trafficking. Thirdly, the approval of a memorandum of procedure spanning how any future investigations should be undertaken, so that it will be clear to both sides that standard procedures

are being adopted. In addition, Sir, I have recently been involved in appointing the new Deputy Chief Officer of Police and part of his remit, when he arrives in 4 months' time, will be to ensure that any external professional relationships are maximised and improved upon if necessary. Thank you, Sir. That is the answer to the specific question I think he asked me.

3.2 Deputy S. Power:

My question is indirectly related to my earlier oral question with notice. The Minister will be aware of the story in the *Jersey Evening Post* on 18th April stating that the murder inquiry relating to the bone fragment had been dropped. Does the Minister concede or can the Minister confirm that the fragment of bone that was discovered was in Victorian brickwork near to a penny dated 1851 and that it predates the inquiry to current child abuse?

Senator W. Kinnard:

I think it is very important that Members are aware that what might be reported in press reports, particularly those from outside the Island, may not be what was necessarily said at the time. I do not wish to be drawn on the details of this matter. This is still a live inquiry and I cannot say this too often. If I start to get drawn on specifics, then we do not know where that might lead, and I do not wish to be difficult but I think Members must wait until the appropriate time. This, even today, is an ongoing live inquiry.

3.3 Deputy S.C. Ferguson:

Meanwhile, in relation to the question by the Deputy of St. Martin, what about the Financial Crimes Unit? When will this be re-manned by Customs as well as Police and be working properly again?

Senator W. Kinnard:

I think the Deputy is mistaken. The Financial Crimes Unit has been working all along and continues to do so.

3.4 Deputy R.G. Le Hérissier:

Would the Minister confirm whether or not she has been involved in the campaign running in the local press at the moment to obtain more Customs' staff and, if she has not been involved, what advice is she giving to the Customs unit in order to move this campaign forward?

Senator W. Kinnard:

I am not aware of any such campaign. All I am aware of is that Customs does have great difficulty with resources and this is quite well known. It is made quite clear in the draft Business Plan that Customs staff have been under pressure for some time and that we require another £650,000 and 6 officers to ensure our frontier teams are up to strength. That is in the public domain and has been in the public domain for some time.

3.5 Deputy C.J. Scott Warren:

I am leading on from the following question. Does the Minister agree that the insufficient funding for Customs Officers is ultimately going to lead to a higher cost being needed for the department, for instance, where more funding for the prison regarding offences committed, with importation of drugs, and does she agree that it will even mean, more importantly, a higher cost being paid by Jersey society?

Senator W. Kinnard:

I am very concerned, of course, about the lack of resilience we have in our frontier teams, and it does mean that there are potential risks to our community, some of which will involve drug trafficking, some of which will involve goods coming into the Island where duty should be paid and where those duties are missed where prohibited goods come into the Island. So I do have concerns that in the longer term, this will lead to, if you like, detrimental results in the community.

3.6 Deputy C.H. Egré of St. Peter:

As a result of communications with several members of my Parish about apparent failures within the police complaints system, does the Minister believe it is the responsibility of the Jersey Police Complaints Authority to update complainants on the progress of their complaint?

Senator W. Kinnard:

I have not been made aware of any such complaints and if the Deputy would like to pass them on to me, I am more than happy to discuss them with the chairman of the Complaints Authority. Generally, I am aware that he does update individuals but if there has been some reason why that has not happened, I would be most happy to take it up with the chairman and I am sure he will assist with everything he can.

3.7 Deputy K.C. Lewis:

Further to my recent question regarding under-age drinking, what progress has the Minister made in consultation with the Minister for Economic Development in toughening up legislation against people selling or supplying alcohol to minors?

Senator W. Kinnard:

This is very much an ongoing matter that is being discussed. My Assistant Minister does, in fact, sit with the Economic Development Licensing Group and they are looking at tougher enforcement measures in terms of off-licenses selling alcohol to younger people, and also looking at other powers which might go to the Constables, in consultation with the Constables, in terms of having alcohol-free zones. So this work is very much ongoing and I know that there is a will to bring this to the States as quickly as possibly but that is really where we are with it.

3.8 The Deputy of St. Martin:

In P.61 of 2008 - just lodged the other day - the Draft Marriage and Civil Status (Amendment) (Jersey) Law, the Minister states that the draft law is compatible with human rights. Would the Minister agree that as the mother can only pass on to her child her maiden name but not her actual surname, is an unnecessary limitation and, therefore, is not compatible with human rights?

Senator W. Kinnard:

This specific point has been reviewed and it is compatible with human rights and what I would say, Sir, is that this matter is down for debate and I am aware that one other Member may well amend it, so that the States can have the wider debate if they wish to. But what I would say, Sir, is that, in fact, the U.K. is at one end of a continuum because there are many countries with restrictions of some form or another; Switzerland, Spain, Ireland, Guernsey, Austria, Germany and Holland all have some form of restriction and, indeed, what my law does do is enable those parents who wish to either use the mother's maiden name or the father's name or indeed, a combination of 2 in whichever order, the law will now allow that flexibility.

3.9 Deputy S. Pitman:

Will the Minister endeavour to provide Members with the information on the qualifications and experience of each individual member of the group overlooking the child abuse investigation and will she also inform Members who appointed these individuals?

Senator W. Kinnard:

I would need notification of that question. Can I check as well which group the Deputy is referring to? Is she referring to the I.A.G. (Independent Adviser Group) group, the independent community group? Yes, she is. I will endeavour to provide that information later today.

3.10 Deputy D.W. Mezbourian:

Existing legislation effectively allowed a user pays charge to be levied for the mutual aid policing at Jersey Live 2007. If there is a Jersey Live 2008 and the cost of policing needs to be financed, will the Minister use the same legislation again this year to charge a user pays charge?

Senator W. Kinnard:

I was unable to attend the meeting last week due to illness, so my Assistant Minister attended on my behalf, for which I am very grateful, and there was a meeting between the organisers of Jersey Live and the Chief Minister, and my Assistant Minister attended. They have made agreement about how Jersey Live is going to be run this year and indeed, how it is going to be afforded. I do not have the precise details, I have to say, sorry about that because I am just returning to work from illness, but all I would say is that there is agreement that has been reached with the organisers.

3.10.1 Deputy D.W. Mezbourian:

May I have a follow-up question to that, please? I asked the Minister whether she would intend to use the legislation that is in place at the moment to levy a charge and I do not believe she has answered that question.

Senator W. Kinnard:

I will happily come back to the Deputy later when I have had the opportunity to receive a full brief. As I say, I am just returning to work from illness and I have not had an opportunity to share that with my Assistant Minister, but I am more than happy to provide that information later.

3.11 Deputy R.G. Le Hérissier:

We have just seen the annual report of the Prison Board of Visitors. Would the Minister confirm that in her view the role of the Board is totally comparable to the role of an independent monitoring agency and should not be compared to the role of a board of directors?

Senator W. Kinnard:

I am not sure I understand the question, Sir. He has one on me there.

Deputy R.G. Le Hérissier:

Could the Minister clarify whether the Board of Visitors plays in all material respects the role of a proper independent monitoring agency?

Senator W. Kinnard:

The Board of Visitors provides an independent monitoring agency.

3.12 Deputy S.C. Ferguson:

From time to time, we have discussed the concept of a police authority. Does the Minister not think that it is more than ever necessary to bring in the legislation for an independent police authority?

Senator W. Kinnard:

The legislation within which the Police Authority lies is the Police Force Law and that, Sir, is in a very advanced stage. I am awaiting some further advice from the Attorney General and it is that piece of legislation that will be bringing into existence the Police Authority and indeed, Sir, we are already looking at how we might be beginning to set it up assuming, at some point, that the States approves it.

3.13 Deputy J.A. Hilton:

The Chief Officer is reporting that due to current staff shortages there was a 37 per cent reduction compared to the same period in 2007 of check-in passengers passing through Jersey ports. Is the

Minister able to tell us whether this is a temporary shortage or permanent and, if permanent, what steps she is going to take to fulfil Jersey's international and national security obligations?

Senator W. Kinnard:

I would see this as very much a temporary matter in the sense that we are, of course, stretched. I think Members have been made aware of the extra strains that are on States of Jersey Police in all areas of work at the moment as a result of the abuse inquiry and other matters. We are due, of course, to have new recruits coming into the force and they will bring the force more or less back up to strength, and that will mean that we will have the ability to fulfil those obligations more efficiently and effectively than perhaps we can at present at all times.

4. Questions to Ministers without Notice - The Minister for Housing

4.1 Deputy S. Power:

The Minister will be aware that he sent an e-mail this morning to all States Members and the Chief Minister copying all ex-officio Members complaining to the Chief Minister about the Chief Minister's intentions to consider referring P.43 to Scrutiny, and specifically to Corporate Affairs. Would the Minister agree with me that he is one of a minority and does not understand the work of Scrutiny or its function?

Senator T.J. Le Main (The Minister for Housing):

No, Sir, I do not agree with that. Yes, I did send an e-mail this morning, but the facts remain quite clearly that the recent scrutinising of the new Homebuyers' Scheme put up a lot of questions that could have easily been answered had the Housing Minister been invited to answer the question at Scrutiny. Scrutiny, I thought, was about getting together the people involved in the process and asking the questions and releasing documents, not doing it the other way round, not inviting them.

4.1.1 Deputy S. Power:

Would the Minister agree with me that the Housing Sub-Panel's response to 2 planning documents were planning discussion documents and not housing documents and he is being territorial about the planning document on homes for the over-55s and first home buyers and home buyers?

Senator T.J. Le Main:

I cannot seem to get through to Deputy Power that, in fact, there is a partnership between the Housing Minister and the Planning Minister and some of the questions that came out of the Scrutiny process were direct questions on housing matters and, relating to that, I would have thought it would have been a much better process to have invited and for us to work together instead of excluding our part of being able to input into that process.

4.2 Deputy I.J. Gorst:

The provision of both community facilities and community space within housing developments is of paramount importance. Short term gain of a higher house density will, in the longer term, cost society more. Can the Minister confirm that the principle of long term community sustainability is one his department has been cognisant of within the next stage of the Le Squez redevelopment?

Senator T.J. Le Main:

Absolutely, Sir. The issue about Le Squez - and I understand where the Deputy is coming from - we have had 3 church groups already seeking to have premises and new churches or church facilities in Le Squez. It is a luxury, Sir, that the Housing Department cannot afford. The issue is quite clear: there are 3 churches very close by, St. Nicholas, Samares and the Catholic church - St. Patrick's. The issue is that we will work, as I have always said, with the 2 Parish Deputies, with the Connétable and with anybody else who is interested, including these church groups, in being

able to provide facilities for all people that are going to be using Le Squez and those surrounding areas. There will be full community facilities provided in the overall plans, and Members such as Deputy Gorst will have the full ability to have an input into these matters. But, Sir, I just cannot afford the luxury of having large tracts of land for any group of users. There will be a community facility for all to use.

4.2.1 Deputy I.J. Gorst:

While the Minister makes great play about church facilities, he is also aware that there are a number of other community facility providers within that area who are struggling to find accommodation. In actual fact, we find that his answer is no to my question. He is not cognisant of the requirement to have community sustainability within that redevelopment.

Senator T.J. Le Main:

I have explained, and the Deputy is well aware, he is due to meet with our department to have his input - as the invitation has gone out, even to Senator Norman if he wishes, and Members that live in the Parish, including the Connétable - on the sustainability of having a community facility that will meet the needs of everyone, but not just one individual group, as some people would like.

4.3 Deputy K.C. Lewis:

In my district of St. Saviour, Sir, I have States housing that is badly in need of maintenance and upgrading. Would the Minister inform Members what his maintenance budget is for this year?

Senator T.J. Le Main:

I will have to get up-to-date figures, Sir, but I know that there is a huge amount of work going on at the moment. The current figure of work programme for the next 5 or 10 years, including the Le Squez, Le Marais, Clos de Roncier, La Carrière, and the Cedars is approaching £70 million to £100 million worth. If he wanted a figure over the next few years, Le Squez itself is a £50 million overall job over a period of 10 years.

4.4 Deputy D.W. Mezbourian:

The Minister will have seen this morning the Ministerial response to my Panel's report on the policing of events in which the Home Affairs Minister accepted every finding and every recommendation. This is not the only example of Scrutiny reports being well accepted by Ministers. Notwithstanding the Housing Minister's comments regarding the Housing Sub-Panel's report, will he accept that the essential function of Scrutiny is proving effective?

Senator T.J. Le Main:

Overall, I am sure it has, but I have to say to the Members that I have had 2 experiences where I believe that with the spirit of co-operation which we have offered has not been accepted or has been ignored. I again say to the Scrutiny Sub-Panel looking at housing issues and matters that I would very much like to work with them so they can assist me in making good decisions, and at times I am excluded from their deliberations. I urge them to reconsider their current way of dealing with some of the issues, but generally Scrutiny is a very important part of the process of good government.

4.5 Deputy S.C. Ferguson:

The Minister does not seem to understand that Scrutiny holds Ministers to account; it does not run along behind them and show them how to do things. Will he undertake to read the explanatory documents relating to Scrutiny, which explain this extremely clearly?

Senator T.J. Le Main:

I would like to remind the Deputy that I am pleading with the Assembly that I would like to be held to account, but I am not being invited to be held to account. **[Laughter]** That has happened on 2

occasions. Please invite me to the Scrutiny process and I am more than happy to be held to account. I want to be held to account and I want good government decisions made, at the end of the day.

4.5.1 Deputy S.C. Ferguson:

Supplementary, Sir. But when the Minister is held to account, and the opinion disagrees with his opinion, he does not seem to like that. Does he not realise, having looked at the other Ministers reading and accepting Scrutiny reports, that sometimes you have to accept criticism?

Senator T.J. Le Main:

I well understand that, but when questions are coming back on housing matters that remain unanswered for the simple reason that we have not been questioned so that we were able to assist the Scrutiny process in answering those questions, then it falls down on that basis. Please, I am saying, everyone knows my telephone number, give me a call and I will attend the Scrutiny process in regard to housing questions that often remain unanswered when a Scrutiny process has been completed.

4.6 The Deputy of Grouville:

Of the Minister's Homebuyers Scheme, could he tell this Assembly how many people have taken up the opportunity to buy, how many have not and, of those who have not, how many are over 55 and thus constitute part of his desperate need for retirement homes?

Senator T.J. Le Main:

The Homebuyers Scheme has not been approved at the moment. There are 3 schemes being proposed by the Minister for Planning and Environment for 3 sites which will produce 60 or 70 units. Perhaps the Minister will correct me. This Assembly will decide whether the Homebuyers Scheme is something that this Assembly would like to support, and I hope they do. At the moment, the Housing Department are collating names of individual families that would meet the gateway entrance to being able to apply to purchase homes under the Homebuyers Scheme, but at the moment it is only names of families who are on low-ish incomes or who have single earners that would meet the needs of being able to enter this scheme. I have no other information on elderly people or otherwise on the matter. That is the only issue at this current time.

4.7 Deputy S. Pitman:

Within the Housing Property Plan, Convent Court was designated to be demolished within the next 4 years. Could the Minister explain why parts of Convent Court are being refurbished and why people are being moved into the building?

Senator T.J. Le Main:

The reason why Convent Court is partly being refurbished is you cannot allow people to continue to live in conditions that are not acceptable. There is an ongoing need to maintain those homes until such time as one finally decides what is going to happen over Covent Court. But I have to say to this Assembly that I have given an assurance to the Members of the Assembly, certainly Deputy Duhamel and Deputy de Faye, that no decisions will be made on the high-rise until we have had a proper, constructive look at it again to see whether there are any other alternatives. So, at the moment there are no real firm plans, although we indicate 4 or 5 years at this present time.

4.8 Deputy G.P. Southern:

Would the Minister inform Members what difference the transfer of the rent abatement scheme from his own department to income support through Social Security has made to the revenue stream in his department?

Senator T.J. Le Main:

I would have to get the figures on that, Sir; I am not quite sure about that. The last understanding I had was that the income stream had increased. I would certainly get the information required if the Deputy would just like to pop me an e-mail of exactly what he would like to know, and other Members, of course; the Housing Department officers are more than willing to answer any questions on it.

4.8.1 Deputy G.P. Southern:

Supplementary if I may. I would like those figures, Sir; I will pop the Minister an e-mail, as he says. Could he further inform Members what conversation has taken place between his department and the Social Security Department over the discretion to pay rent directly to the Housing Department or through the tenants?

Senator T.J. Le Main:

Yes, Sir, I will get that information also, but I have not been party to any of that. It is obviously between departments, and I will get that information.

4.9 Deputy R.G. Le Hérissier:

Would the Minister outline, apropos of what Deputy of Grouville was asking, how many States houses have been sold under the Property Plan and whether the sales are on target?

Senator T.J. Le Main:

Currently, including the low-rise at Le Marais and Le Squez and one or 2 others, approximately 70 have been sold and there are over 300 waiting buyers at the present time.

4.10 Deputy P.N. Troy of St. Brelade:

When the Minister sent an e-mail to all Members saying that referring the bull semen issue to Scrutiny was, I think his words were: "A total waste of time." Does he feel that he was talking a lot of bull and does he feel that he would like to withdraw that statement that he sent to all Members that Scrutiny is a waste of time?

Senator T.J. Le Main:

You have taken it out of context again, Deputy Troy. I have certainly not insinuated. If it felt that way or looked that way, it did not mean to. I do not believe Scrutiny is a waste of time. I think Scrutiny is a very, very good process for holding Ministers to account and providing good policies to come forward for this Assembly. I totally support the process, but it needs some sharpening-up.

4.11 Deputy of St. Martin:

I am delighted that the Minister has dusted the cobwebs off the legislation regarding tenants' deposits. Could he explain to the house, or tell the House, when he is going to take away the dust from the Security of Tenure legislation, and will that be necessary in light of the impending immigration law?

The Bailiff:

In 15 seconds, please, Minister.

Senator T.J. Le Main:

I would like to say that the Residency Tenancy Law has gone out for consultation today. In there is a consultation document over 2 months and it has all the issues regarding what the Deputy of St. Martin is calling for. It has tenants; it has all kinds of issues on what we would like people to comment on.

The Bailiff:

That concludes the second period of questions without notice. I have no notice of personal statements nor of statements on matters of official responsibility. I have been notified, before we come to public business that the Chief Minister would like to make a statement in relation to one matter.

STATEMENT ON A MATTER BY THE CHIEF MINISTER

5. Statement by the Chief Minister regarding P.43/2008 being withdrawn

5.1 Senator F.H. Walker (The Chief Minister):

Thank you very much. I would like, as I think is already commonly known, to ask for leave of the States today to withdraw P.43 - the importation of bull semen - from the agenda. This is an issue I think everyone in the House accepts, that this is an issue of the greatest importance, not just to the dairy industry but indeed to Jersey generally. When I became aware yesterday morning - despite the fact, I have to say, that this issue has already been scrutinised by a Sub-Panel under the leadership of Deputy Breckon - that it would be the intention of Scrutiny to call this matter in, I immediately discussed the appropriate response with my team and with members of the industry. I did agree yesterday morning, providing an assurance was given that the work of the Scrutiny Panel would be completed in time to allow for a debate before the summer break, that I would ask the States not to debate the issue today. The reason for asking for an assurance that it would be debated before the summer break is that having worked with the industry now on the dairy improvement scheme - the Pathway Forward - for something like 2 years, I fully appreciate, and no one should believe otherwise, that there is a real urgency here if we wish to have a successful dairy industry in Jersey long term. I was very pleased that yesterday evening I was able to reach agreement with Deputy Ferguson, in her capacity as President of the Chairmen's Committee, to that undertaking and therefore I am more than happy for Scrutiny to take up this issue on the understanding that it will come back for debate by this Assembly at some point before the summer break, presumably in July. I hope that will give everyone the confidence that every issue has indeed been thoroughly addressed, every question has been answered one way or the other, and give Members the confidence to take a decision according to their views at that time. I apologise, and apologise profusely, for the late notice of this withdrawal, but I only did become aware of Scrutiny's intention yesterday morning and it was only finally possible for Deputy Ferguson and I to reach agreement late yesterday evening, hence the late notice. I would ask Members for leave to withdraw the matter from today's agenda.

The Bailiff:

You do not need the leave of the States and I do not think you are withdrawing it, you are deferring it.

Senator F.H. Walker:

Technically, as always, you are pulling me up and you are quite right. Yes, deferring it.

The Bailiff:

Do you wish to defer it? It is open to you to ask the Greffier to put it down on another date. Do you wish to ask him to put it down on 15th July?

Senator F.H. Walker:

If that is the last sitting before the summer break, then yes, please, although I would hope that it may even be possible for the Scrutiny work to be completed to enable an earlier date, but if we can agree that come what may it will be debated no later than 15th July, I would be very grateful.

The Bailiff:

Thank you very much. Members note that the Chief Minister has deferred the debate of P.43.

Deputy S.C. Ferguson:

May I make a comment on that, Sir?

The Bailiff:

If it is exceedingly short you may. We are not debating the matter. The Chief Minister has deferred it.

5.1.1 Deputy S.C. Ferguson:

I was just going to confirm that it is a cross-cutting issue and a number of Scrutiny Panels will require a co-ordinated approach. We are very conscious of the importance of the issue and the need for speed. The Chairmen's Committee is meeting at lunchtime because of the cross-cutting issues, and we will come back to the House with the details later.

The Bailiff:

Thank you very much.

PUBLIC BUSINESS

6. Draft Health Implementation (Jersey) Law 200- (P.34/2008)

The Bailiff:

We come now to the first item of public business, the Draft Health Implementation (Jersey) Law - P.34 - and I ask the Greffier to read the principles of the draft.

The Greffier of the States:

Draft Health Implementation (Jersey) Law 200-. A Law to enable the States and, in specified circumstances a Minister, to enact subordinate legislation to give effect with or without exceptions, adaptations and modifications to all or any provisions of the International Health Regulations adopted on 23rd May 2005 by the World Health Assembly, as those Regulations may be amended from time to time, and of any regulations that replace those Regulations and for connected purposes. The States, subject for the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

6.1 Senator B.E. Shenton (The Minister for Health and Social Services):

Thank you very much. Just to give you some background on this, this is an enabling law. The devil, or the detail, will be in the regulations themselves which will come before the House. To give you a little bit of background, the International Health Regulations are a legally-binding international agreement to prevent the international spread of disease. They were revised in 1969, 2005 and then the 2001 revision entered the law in 2007. The original 1969 Regulations applied mostly to 3 infectious diseases: cholera, plague and yellow fever. However, the dynamics of communicable disease spreads in the world have changed greatly since 1969. We now live in a global village where international travel and trade are commonplace and diseases can travel at the speed of jetliners. This was certainly highlighted by S.A.R.S. (Severe Acute Respiratory Syndrome), which was very much the first disease of the 21st century to open ourselves up to these vulnerabilities. To meet these challenges, the I.H.R. 2005 Regulations have a much broader scope. They apply to any disease, including those from new or unknown causes, irrespective of origin or source, that could present significant harm to humans. They address weaknesses learnt in past decades in detecting and responding to disease outbreaks. By adopting these, the global community has agreed that it will work together to meet these challenges in areas such as planning for a possible influenza or other epidemic. Partners to these agreements: the agreement is binding on 194 countries under international law. The key obligations of signatories for the designation or establishment of a national I.H.R. focal point; strengthen and maintain the capacity to detect, report and respond to any health risks; respond to requests for verification of information regarding

potential public health emergencies; assess public health events by using decision instruments and notify the World Health Organisation within 24 hours of all events that may constitute a public health emergency of international concern; provide routine facilities, services, inspections and control activities at international airports, ports and ground crossings to prevent the international spread of disease; implement all appropriate measures as recommended by the World Health Organisation. With regard to designate or establish a national I.H.R. focal point, the focal point for Jersey and other Crown dependencies or dependent territories will be through the U.K. Government representatives at the Health Protection Agency Centre for infections. This legally-binding agreement significantly contributes to international public health security by providing a new framework for the co-ordination for the management of events that may constitute a public health emergency of international concern, and it will improve the capacity of all countries to detect, assess, notify and respond to health risk. A working party of officers from Health and Social Services, Chief Minister's Department, and Harbours and Airport have reviewed the requirements and considered that the specific legislation provisions that may be required or permitted by the I.H.R. 2005 should be given effect by Regulations or Orders to be made subject to the provision of the principal enabling Law, which is what we are discussing today. The main Regulations under the Law are to be drafted shortly by the Law Draftsman within this year's law drafting time, and the requirement to implement the Regulations falls within the remit of our department as Health and Social Services. The financial implications for the Law are still being considered by the working group, but it is expected that this is likely to be limited, as there is no requirement for significant resources - either capital or manpower - to achieve compliance. Health facilities as they exist at present are expected to be generally sufficient for the purpose of the new Law. The necessary routes for contact with the focal point in the U.K. have already been established and the Public Health Department at Housing and Social Services have implemented a means of 24/7 contact availability. In view of the wider significance of a public health emergency of international concern, the Emergency Planning Officer has also been kept informed of the developments of the Law. While the day-to-day affairs dealing with individual health at ports of entry will remain a function of the Minister for Health and Social Services, it is intended that any significant local issue or notification of an international event will be conducted through the facility of the Emergency Planning Board. I would like to just draw Members' attention to one point of the enabling Law, which is that although the Regulations will come before the House to give effect to the Law, there is a provision within the Law that the Minister may himself, in effect, make Regulations by Order in the case of circumstances where a degree of expediency is required. In my briefing notes, an example was given if something should happen while the States was in recess. I think I should draw this matter to the Assembly's attention, because obviously it does give quite a lot of power to the Minister inasmuch as he can use an Order to make, in effect, Regulations that would normally go through the House. But I can give assurances that this would only be used in an emergency and it would not be used otherwise. I think it is worthwhile drawing this to the Assembly, and I put forward the proposition.

The Bailiff:

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

6.1.1 Deputy G.P. Southern:

I am drawn to the last statements that the Minister made about the necessity to enact Orders, possibly when the House is not sitting. I just want to confirm with the Minister that that would be on a rare occurrence and only in the case of an emergency, because it seems to me that, overall, with the move to Ministerial power, there is a vast amount of centralisation and a lot of decisions being made by Ministers without coming to the House. In particular, one of the issues is that something brought by Regulation has to come to the House for approval, and that is a very important part of the process. In particular, where data protection issues or human rights and

confidentiality issues are concerned, it is important that somebody takes a look and says: “What does the Minister require? What is necessary? Is this Regulation necessary?” The use of Orders to circumvent that process is becoming extremely prevalent among Ministers, so I just want to confirm the assurance that he gave that in this case the use of an Order is entirely appropriate because it would only be used in emergency situations.

6.1.2 Deputy D.W. Mezbourian:

I refer the Minister to the first paragraph entitled “Background” in the report, which reads that: “The Regulations are scheduled to enter into force in June 2007. Jersey has concurred with the view that the Regulations are applicable to the Island to the extent that domestic implementation measures fall within the scope of the U.K.’s international obligations.” I ask the Minister to advise the House whether there would be any implications if this was not accepted today.

6.1.3 Deputy G.C.L. Baudains of St. Clement:

In similar vein, I would be grateful if the Minister, in his responses, could clarify some issues for me, and following the theme of the previous speaker and looking at first paragraph of the report, I notice, as the Deputy said, the Regulations were scheduled to enter into force in 2007. Is there some reason why this is being written historically? It does not really make sense, because June 2007 was a while ago. Moving on from that: “Jersey has concurred with the view that the Regulations” *et cetera*. Could I ask why Jersey has concurred with the view and on whose recommendation it has done that? Moving down to the bottom of the second paragraph: “Jersey has informed the U.K. we are working to introduce the necessary changes” *et cetera*. I am a little concerned that apparently we have informed the U.K., pre-empting this proposition. Who, precisely, informed the U.K., and on whose authority? It does seem to me that this ultimately will require some staff and resources, but I am not quite sure of the benefit that accrues to Jersey. It does seem that if we are not compelled to partake in the scheme, we may be saving some resources. I would like the Minister to explain whether or not we are in fact compelled to follow this course and, if we are not compelled, why have we chosen to do it?

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

In the interests of clarity and transparency, in paragraph 2(4) of the Law, would the Minister be prepared to issue guidelines as to when he might exercise an Order, in the interest of giving the Members comfort, and also to ensure that while his best intentions I am sure we have respect for, his successive Ministers would also follow the same sort of guidelines.

The Bailiff:

Connétable, can we come to that when we debate the Articles of the Bill, rather than the principles. Does any other Member wish to speak on the principles of the Bill? I call upon the Minister to reply.

6.1.5 Senator B.E. Shenton:

I will start with Deputy Southern’s concerns, which I highlighted myself, because obviously, to a certain degree, I do share his concerns. The Minister for Health and Social Services, if he is of the opinion that the immediate or early enactment of any provision may be made under paragraph 1 is necessary or expedient in the public interest, the Minister may, by Order make such a provision. Moving on, I think the idea of the Constable of St. Brelade to issue some sort of guidelines when this may be enacted would be a good idea. I find the phrase “in the public interest” to be an extremely woolly one, and I personally would prefer to ensure that Regulations are brought to the Assembly in all cases unless there is something truly, truly exceptional whereby the Regulations cannot be brought to the Assembly. I can obviously give that undertaking as Minister for Health and Social Services, but I cannot give it for the people that come after me as Minister, and so I think that the issue of some guidelines may well be in case. The matter was brought up of what would happen if we do not accept. The U.K. is a member of the World Health Organisation and, as

part, it is deemed to have to comply with World Health Organisation rules. There is no point in being part of a club if you do not abide by the rules of that club. I think the fact that Jersey decides to almost tailor on the back of it makes a lot of sense. Personally, I dislike legislation for the sake of legislation, but this appears to be eminently a common sense approach that the whole world gets together in the way it deals with epidemics and threats. Deputy Baudains also mentioned a similar aspect as to who told us to implement this law. Again, it is one of these ones where the U.K. is a member of the World Health Organisation. Being a member, you have to comply with certain rules and so on. There does not seem to be anything particularly problematic with this. Indeed, with pandemic flu - which will always come back to haunt me - one of my main questions was there was no point in having vaccines in place if you do not have the infrastructure to use them and so on. Similarly, we have to look at things very much on a global scale, and the closure of airports may be something we need to consider. That then leads on to numerous other questions with regard to food availability and so on. I think it does make a lot of sense to enact this enabling Law, but I cannot tell the Deputy how we reached where we are today. All I know is where we are. With that, I put forward the proposition.

Deputy D.W. Mezbourian:

If I may, I am not happy with the response that the Minister gave to my question. I am conscious that we are having legislation brought to the House.

The Bailiff:

Deputy, I am sorry, you cannot make a second speech. Whether you are happy or not, I am afraid is neither here nor there.

Deputy D.W. Mezbourian:

I do not believe he has answered the question, Sir.

The Bailiff:

If you want him to answer a question, that is another matter.

Deputy D.W. Mezbourian:

I am sorry that the Attorney General is not in the House, because I would like the matter to have been put to him, Sir.

The Bailiff:

The question that you would like to put is what?

Deputy D.W. Mezbourian:

I asked the Minister what the implications would be if this legislation was not accepted today, because we are told in the report that domestic implementation measures fall within the scope of the U.K.'s international obligations. It seems to me that we should be aware of what the implications are for the U.K., if there are indeed any, if we do not pass this legislation today. The Minister has not provided the answer to that question.

Senator B.E. Shenton:

Very quickly, no one is holding a gun to our head on this. If we do not pass it today, we do not pass it today. It makes a lot of sense to pass it today, as far as I am concerned. These are provisions and directions from the World Health Organisation. The United Kingdom have already asked for a stay of execution, as such, because they felt that they could not pass the relevant legislation in time. Certainly it has not been passed to me that this is a gun to the head of the Assembly. I would hate to start bringing in legislation on the basis that if you do not pass this you are in deep trouble. But I think we would have to have a very good reason why we would not want

to pass something like this, which is basically a piece of legislation that is big enough to be a team player on the international stage.

The Bailiff:

Does that answer your question, Deputy?

Deputy D.W. Mezbourian:

Yes, Sir, thank you.

The Bailiff:

I put the principles of the Bill. Those Members in favour of the document ...

Deputy P.N. Troy:

Can I have the appel, Sir?

The Bailiff:

I ask any Member who is in the precincts who wishes to vote to return to his or her seat. Can I ask the Greffier to open the voting which is for or against the principles of the Bill.

POUR: 40		CONTRE: 3		ABSTAIN: 0
Senator L. Norman		Deputy R.C. Duhamel (S)		
Senator F.H. Walker		Deputy J.J. Huet (H)		
Senator W. Kinnard		Deputy G.C.L. Baudains (C)		
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator M.E. Vibert				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Peter				
Connétable of St. Clement				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Deputy of St. Martin				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				

Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

The Bailiff:

Scrutiny. Deputy Martin, Vice-Chairman of the Panel, do you wish to scrutinise the Bill?

Deputy J.A. Martin (Vice-Chairman, Health, Social Security and Housing Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

Minister, you propose the Articles *en bloc*, do you?

Senator B.E. Shenton:

Yes, I do.

The Bailiff:

Do you wish to speak to them?

6.2 Senator B.E. Shenton:

No, I think they are fairly straightforward, Sir.

The Bailiff:

Articles 1 to 3 of the Bill are proposed. Seconded someone? **[Seconded]** Does anyone wish to speak on any of the Articles of the Bill?

6.2.1 The Connétable of St. Brelade:

Is this the appropriate time to mention my comment regarding the guidelines on 2(4)? I think the Minister has taken on board the comment and it is purely in the interest of clarity in the future.

The Bailiff:

I call on the Minister to respond.

6.2.2 Senator B.E. Shenton:

I certainly have taken on board the comments and I will ensure that guidelines are issued.

The Bailiff:

I put the Articles of the Bill. Those Members in favour of adopting them kindly show. Those against? The Articles are adopted. Do you move the Bill in Third Reading, Minister?

Senator B.E. Shenton:

Yes, please.

The Bailiff:

[Seconded] Attorney General, in your absence Deputy Mezbourian asked a question as to whether there was any obligation on the part of the Assembly to pass this Law, having regard to the fact that the United Kingdom appears to be under an international obligation towards the World Health Assembly. I wondered whether you were able to add any clarity to the legal position in that respect, or is that a matter of which you need notice?

Mr. W.J. Bailhache Q.C., H.M. Attorney General:

I think I would need notice of that, Sir. I do not personally recall being consulted on that matter.

The Bailiff:

Does any Member wish to speak on the Bill in the Third Reading? I put the Bill in Third Reading. Those members in favour of adopting it kindly show? Those against? The Bill is adopted in Third Reading.

7. Draft Sea Fisheries (Inshore Trawling Netting and Dredging) (Amendment) (Jersey) Regulations (P.36/2008)

The Bailiff:

We come next to the Draft Sea Fisheries (Inshore Trawling, Netting and Dredging) (Amendment) (Jersey) Regulations and I ask the Greffier to read the principles of the Regulations.

The Greffier of the States:

Draft Sea Fisheries (Inshore Trawling, Netting and Dredging) (Amendment) (Jersey) Regulations 200-. The States, in pursuance of Articles 2 and 29 of the Sea Fisheries (Jersey) Law 1994, have made the following Regulations.

7.1 Senator P.F.C. Ozouf (The Minister for Economic Development):

As Minister for Economic Development, I am tasked with regulating the Island's fisheries. Fisheries is a common Island profession and leisure pastime, although beach netting is practised, in reality, only by a few professionals nowadays. The amendment Members have before them is designed to strengthen further the regulation of activity of beach netting done between the low and high tide marks. Regulating netting below the low tide mark can be done, but it is at present rather complicated to achieve as it must be approved by the Ministry of Justice in the U.K. and often requires discussions with neighbouring fishing authorities and communities. I should say to Members that this is not the subject of this amendment today. I know that the Environment Minister has promised that he is going to be publishing very shortly a coastal management arrangement and no doubt that will inform our deliberations and may lead to making changes to some of those issues in relation to the area of land below the low water mark. As Members will see from the report attached to the amendment, a number of circumstances have occurred recently whereby nets set below low tide on the beach have become inaccessible for a number of days because the tidal amplitude has decreased. That is to say the tide has gone from spring to neap; however, the net will continue to fish and may trap unwanted fish and shellfish which cannot be released on the next low tide, as would normally happen during spring tide. This is what this amendment proposes to do. It is proposed that there is a limit set on the beach net on the beach and that it should be removed after a maximum of 4 days, which essentially means that it cannot be neaped without becoming illegal. This has, I should say to Members, been discussed at length by both the amateur and professional fishermen on the Fisheries and Marine Resources Panel, of which my particular representative is the Constable of St. Brelade. The Panel were unanimous in their support of this amendment to ensure that these nets are not left on the beach unnecessarily for ghost fishing. As custodians of the marine environment, I would ask Members to support this measure which is designed to strengthen marine life on the seashores around Jersey. Sir, I make the preamble.

The Bailiff:

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

7.1.1 Deputy D.W. Mezbourian:

As the brief report accompanying this amendment states, having considered a number of options following the revelations of both neaped and apparently abandoned nets, we are facing a proposal to restrict the amount of time that a beach set net may remain in place. At the moment, beach set nets are not constrained in any way. I am led to believe that many, be they commercial or leisure fishermen, would prefer to not be regulated in this way and would probably prefer to not be regulated at all. However, following a number of complaints, the Fisheries and Marine Resources Panel made a decision to recommend that a maximum of 96 hours be imposed before a beach set net would require to be removed. Will the Minister advise the House what consultation took place regarding the rationale for a 96-hour constraint before the requirement to move the net, and will he tell us too what the other options were that were considered, as referred to in the report? My understanding is that Guernsey has a registration system in place for both commercial and leisure fishermen who wish to set nets, which leads to some system of accountability, and I ask the Minister whether consideration was given to introducing just such a registration system in Jersey. If we have no such system, will he advise us how the department is able to assess the impact of this type of fishing and whether or not it is sustainable? When I discussed P.36 with the Senior Fisheries Officer, he referred to the process of mechanical retrieval of nets. This suggests to me that some effort is being put into this fishery that is, in the report, referred to as being of minimal unnecessary impact to the environment. Notwithstanding that the Minister is himself responsible for economic development, as he has already told us, will he advise the House on the amount of environmental input that was taken into consideration regarding the proposed 96-hour constraint? Will he also advise us whether there are any independent conservationists and environmentalists who sit on the Fisheries and Marine Resources Panel? I may add that I understand that such questions are being asked at the moment in the U.K. in relation to the proposed Marine Bill. Sir, I am aware that there is some laughing taking place on the Constables' benches and I wonder whether it is at my speech or at something else. We have been told in this report that the nets that are being used are durable and continue to catch fish until they are removed, a situation which the Minister has referred to, and we know, as ghost fishing. Will the Minister advise the House whether there is any evidence of marine mammals or birds being caught in these beach set nets? Regretfully, the long-awaited integrated coastal management strategy is not yet a public document, albeit that Members have been offered sight of a recent draft copy. The Minister has, of course, referred to that. Will the Minister confirm that within that document there are plans to introduce a sustainable, Island-wide netting policy? As an example, I have been made aware of vast lengths of monofilament nets being set on the southeast coast to target bass. Will he advise us whether no-take areas are to be discussed regarding beach set nets? In the report accompanying this amendment, we are told that this legislation, if approved, will not have any impact on fishermen using nets in a traditional, conscientious manner, but that fisheries officers will be assisted in ensuring that abandoned nets or inappropriately set nets are removed within a reasonable timescale. I ask the Minister to identify to us how fisheries officers can ensure that a net that has been abandoned will be removed within a reasonable timescale and how they are able to identify when a net has been abandoned? How will the fisheries officers know when the net was initially set? Is the leeway of a 4-day wait from the time they acknowledge the net is set or from the time when the net is perhaps reported to them by a member of the public or indeed from perhaps when they themselves notice it? In other words, Sir, will the Minister explain to us how this legislation will be policed? Notwithstanding the Minister's answers to my questions, Sir, I would like to say that I regard this proposed amendment as a very small step towards the essential effective management of our marine environment.

7.1.2 Deputy R.C. Duhamel of St. Saviour:

I have referred on a number of occasions when Sea Fisheries Regulations, or whatever, have come to this House in the name of economic development, in that perhaps we were putting our eggs into the wrong basket, mixing my metaphors. It comes both as a surprise and no great surprise that, in picking up on some of the comments made by Deputy Mezbourian, it would appear that there are

no comments on the environment issues that should really have been addressed as part of this regulation. We are told in this report the reason for this Law is to somehow protect from the ability of nets inappropriately set or placed to over-fish when covered by the tide and inaccessible for the fishermen to remove the fish from those nets. I think Members should be aware of how the nets do catch the fish. It is not a case in encircling a small shoal and pulling it in and then the fish are despatched immediately. These nets are set in the waters, fish swim through them and are caught up in the nets by their gills and, effectively, drown. That is not to say that I am anti-fishing. Indeed, Sir, I am not. But the nub of this Regulation really is to protect, presumably from an economic point of view and not necessarily an environmental point of view, the number of fish that are either despatched too early or picked up in a fashion that allows them not to go to market, because Members must realise that any fish that are caught in a net and held there at low tide, even though that tide is sufficient to cover the nets, will be predated upon by other marine organisms and the fish will not come out whole. They will be nibbled by crabs or other fish. If indeed there is a legitimate fishing interest, the state of the fish is absolutely important in terms of their marketability. Nobody would wish to purchase a fish that has maybe been half eaten by some other organism, and the economic aspects would suffer. So, it seems to me, Sir, that the idea behind this piece of legislation, this is the reason which is what we are debating, is to protect from this over-fishing effect by the fishing persons being somewhat negligent in not reading the tidal conditions, or indeed being inexperienced in setting out their nets in an area on the seabed which will render it impossible to take out the catch in a reasonable time in a reasonable state. This, Sir, is what I want to just get on to. The Law that is being proposed would appear to be important in the setting of the nets issue. I know we will come to the meat and drink of the Regulations at a later stage, but I think I have to refer to some of the particulars of the legal clause, and there are not very many of them, because it does set the tone as to why the Law is important. The Law has been framed in such a way that it says that if indeed a beach set net which is placed in a gully somewhere is moved to another location, then, providing that is done after a period of no longer than 96 hours - 4 days - then that will be acceptable. Clause 3, under item 3, says that the beach set net is moved to another location only if each part of that beach set net is located in a different place to where that part was located immediately prior to the move. That is unsuitable legalese and perhaps it needs some translation. What it means is that it would technically be possible for an inexperienced fisherman to find his net in a state of overflow, to move his net maybe a metre or, in old money, a foot or 2 to a different place in terms of where the pegs are being set, but in all essence in the same position, slightly higher up the beach where it would continue to fish for another 4 days and the process could be repeated. For those who know a little about the tides, the tides do go up and down. **[Approbation]** I will not identify the Members for whom that comment was aimed at; it might come as a revelation to them. Going on, Sir, the actual fishing experience inevitably mimics the rise and fall of the tide. So, whereas the intention of this particular legislation would be seeking to provide some comfort in respect of over-fishing or inappropriate fishing, I think the effect of the legislation as it has been worded could quite easily be bypassed or even ignored, and the effect might well be for a net just to follow the tide up the beach and the over-fishing effect, which is what we are trying to seek to minimise, would continue. So, I think the proposals for a 96-hour period is wholly inappropriate. If the reasons behind the Law are, as I have mentioned, to protect from over-fishing, I would have suspected that a more appropriate way of framing the legislation and the Regulation might well have been to have stated that it was illegal or inappropriate to set a net on the basis that its catch could not be taken after one covering of a high tide. That seems to me would be a better way of dealing with this issue, rather than in the fudged way that the Law appears to have been brought forward. Doing that, Sir, would mean that responsible fishing persons would have to go down and take in their catch once their nets had been exposed and they were able to do so. It would mean that they would not be in a position of having to leave their catch out for up to 4 days to be possibly eaten by other fish or other animals. I think, Sir, that had the time period mentioned been tied into maybe 24 hours, which would have given the tide a chance to come up and down at least once, then that would have been more reasonable. Indeed, had clause 3 about the

setting of nets been reworded to take into account the comments I have made about the ability of the fisherman to just move it up a couple of feet, then I think the whole basis of the Law would have been framed in a way that would have achieved the intent of the department. As it does not, Sir, I am sure I cannot support the reasons for this Law and I would urge all Members to vote against it on that basis, and to ask the department to do 2 things: to come back with a better-worded report and set of Regulations and in future that any amendments to the Jersey Fishing Regulations be supported or not by comments from the Environment Minister, or indeed the other environmental bodies that do have a co-interest and an equal interest in the exploitation of any marine resources around this Island.

7.1.3 Deputy G.C.L. Baudains:

I applaud the sentiment behind this amendment, but I am minded to reflect that making something illegal does not necessarily stop it happening. I do fear that the sort of problems that have arisen and are laid out in the report, and which are attempted to be addressed by this amendment, will continue to happen, because I cannot see any way in which this amendment will prevent the abandoned nets and other problems that are highlighted. I cannot think of any way that the amendment will prevent that. I cannot see, frankly, the mechanics by which it is going to make any difference whatsoever. I share Deputy Mezbourian's concerns. For example, when does the 96-hour period begin? Unless the person placing the net phones up the department and says: "I have just put a net down at 0800 hours" who is to know whether it has been there for a day or a week. I really cannot see how the practicality of this is going to work. I would ask the Minister whether he has in fact considered other options, because I fear that this amendment is well intentioned, but ultimately likely to be impotent.

7.1.4 Deputy C.J. Scott Warren:

I admit I, and I suspect a lot of Members of this House similar to me, am not knowledgeable about fishing and local fishing, but nonetheless, it does seem to me that the period of 96 hours is a long period. In fact, I would say it is too long a period to leave nets. Even a period of 72 hours maximum I would have thought was questionable. I would like further clarification on why, as others have said, this long, long period of leaving nets and how it has going to be policed, as has been said. I do have concerns regarding Article 3.

7.1.5 The Connétable of St. Brelade:

I really rise to ask the Minister to confirm one or 2 points which spring to my mind. I think it is quite clear that 96 hours is a figure, really, which is dictated by the tide. Effectively, fishermen will fish the tide on a low spring tide, and anyone can glance at the tide table and realise there are very few good tides during which this operation can be carried out. If one was to make it perhaps 24 hours, one would be restricting fishermen to the lowest, lowest spring tide, whereas I think a reasonable height, and a height to which the Panel had applied themselves, was something of the region of a 4 feet above datum level, which would give, as boating members around here will be aware, about a 4-day period over which they could utilise their nets. I consider, and I am sure I would ask the Minister to confirm, that the whole reason for the bringing of this amendment is in the interests of the environment. That is the primary concern. We have had, in St. Brelade situations where nets have been neaped and quite clearly this is unacceptable from an environmental point of view, in that the fish are killed. Also, there is the added danger - and I would ask the Minister to take this into account - a continued danger, to other sea users while these neaped nets fish, purportedly, during the tides when other users are using the surrounding areas. The abandoned nets, which are now made of nylon rather than the old-fashioned cottons, get around propellers of vessels and cause the emergency services no end of concern and danger. I would also ask the Minister to take into account the fact that professional fishermen will always pick up their nets before daylight. They are conscious of bird attacks on their fishing efforts, and I do not think you will find any professional fisherman will leave a net down much past sunrise,

because he will be certain that the bird population will take advantage of his catch before he does, which is not generally very popular. I would urge Members to support this amendment. It is in the interests of the environment, it is in the interests of good fishing and it is really designed to keep the rogue element of those who use nets under control.

The Bailiff:

I call upon the Minister to reply.

7.1.6 Senator P.F.C. Ozouf:

I am grateful for all of the comments made and questions; there has been some important questions raised by Members. I would just say that on the one side, in respect of Deputy Mezbourian's comments, she is saying that she wants improved environmental standards in the coastal management zone system that the Minister for Planning and Environment has said he is going to be bringing forward. She wants a strengthened position of fisheries management. On the other side, I think it is clear that she does not believe that there should be a proposal put in place to limit the beach net arrangement. Certainly that is what I understand her remarks to be. In respect of Deputy Duhamel, as many things that I bring forward or other Members bring forward, he does not think it is going to work. He, too, wants - and I will agree with him on that - a coastal zone management system. As far as the underlying remarks about the potential conflict of interest in respect of the Economic Development Minister dealing with fisheries matters, there is a joint responsibility for our fisheries industry and it is important to have regard to both environmental matters and economic matters. I can give Members some considerable comfort that all the advice that I receive on fisheries matters, and all fisheries protection matters, are not dealt with through the normal Economic Development Department, but is from the Fisheries Department, whose budget and whose place still remains in Environment. I am simply the technical Minister dealing with the legislation. I think there have been calls for there to be a single Minister responsible for agriculture. Well, I am the single Minister responsible for fisheries. That system is working. We have appropriate checks and balances to ensure that the economic issues are not dominating the environmental ones. In this issue, it is very clear that the environmental issues are absolutely clear. I am sure Members will have seen reports in the media and they will have probably received a report from the fisheries industry from the Panel that I commented on recently. These are difficult times for fishermen and what we are trying to do, as Economic Development, is raise the game of fishermen in terms of getting more markets for their fish without in any way undermining the environmental considerations. But if Members do want some additional safeguards put in place, then they can consider again who brings forward bits of legislation for fisheries. It is very difficult to separate out the 2 different things between 2 different Ministries. If Members would find it helpful for there to be a comment from the Minister for Planning and Environment when we are dealing with particular issues, then I can talk to my friend the Minister for Planning and Environment to do that. As far as the membership of the Panel is concerned, and that is the key, crucial body, that is the key representative body that these measures go through, then I can inform Members that apart from having the Constable of St. Brelade on that Panel, there is an angler, there are some people from the industry themselves. But that Panel is administered by our Sea Fisheries Protection Department. They are the ones that effectively set the agendas, they are the ones that deal with it and they are the ones that report legislation and legislation changes to me. Therefore, I see any suggestion that there is some sort of conflict of interest between the roles ... I would suggest to Members that that does not exist, but perhaps we need to explain it a little more clearly. In respect of Deputy Mezbourian's particular concerns, I am not sure she was gesticulating to me that she is favour of this, and she is in favour of arrangements for beach set netting. I did not quite understand that from her remarks, I have to say. What I can do is I can answer some of her ... and she did ask a number of quite detailed questions. I can say in respect of that registration scheme in Guernsey that that is something that is going to be considered as part of the coastal zone management scheme. If we can put in place some sort of registration in Jersey, then that is

something that we will want to consider, but that is going to be part of that coastal zone management scheme. In respect of who is going to police the issue, the recording of nets will be made by the fisheries staff and by the fisheries control officers on their regular visits. They will remove a net if it is found to be in contravention. I know that the Deputy has had discussions with the senior fisheries official in relation to pointing out what the offences arrangements are, which are in the underlying Law. So, I would suggest to her that there are appropriate policing measures in place by our Sea Fisheries patrol individuals. In fact, the reality is that there are only a small ... I am not the expert that maybe Deputy Baudains or Deputy Duhamel is, or the Constable of St. Brelade is, but I am advised that there are only a limited number of locations where beach set nets are put down. In respect of the question that she raised about why 96 hours, the Panel, I know, discussed whether or not it should be 72 hours or 120 hours. The Panel discussed that, I am advised, at some considerable length and came forward with the 96-hour limit. There are some, and I had a comment by somebody, that do not believe there should be any limit at all. Thankfully, I do not think that is right, and certainly the comments of Deputy Scott Warren were very clear that she understands the issue that a net which must be attended upon at every 12 hours, every tide setting, is absolutely clear. So, I think that the appropriate balance has been struck with the 96 hours. I think that I have covered all of the particular comments that have been raised by Deputy Mezbourian. If I have not answered all the questions, maybe she would indicate; there were quite a number of them. I will give way, if I may, Sir.

Deputy D.W. Mezbourian:

I did ask the Minister whether there is evidence of marine mammals or birds being caught in these beach set nets.

Senator P.F.C. Ozouf:

I am not sure if there have been any mammals in respect of that, but there were some concerning continued placements of nets which have been one of the catalysing reasons by that. I cannot say whether or not there have been any mammals. I know that setting of beach set nets have been of concern in other jurisdictions in respect of trapping of other mammals. I have to be honest and say that I am not advised that there have been any issues, but that is not the principal issue of concern here. Frankly, a net should not be left for a period in excess of where we are discussing. They should be attended to regularly and it is not environmentally sound, and it is frankly cruel for a net to be left for any length of period of time. Sir, I can give Members confidence, I hope, that there are going to be further changes, further strengthening of arrangements that are going to be made following the Minister for Planning and Environment's publication of his coastal zone report, and I am hopeful that we are going to be able to bring forward further changes to legislation based upon that. I move the preamble to the Regulations.

The Bailiff:

Appel? Can I ask any Member in the precinct who wishes to vote to return to his or her seat. I ask the Greffier to open the voting, which is for or against the principles of the Regulations.

POUR: 39		CONTRE: 3		ABSTAIN: 0
Senator L. Norman		Connétable of St. Mary		
Senator W. Kinnard		Deputy R.C. Duhamel (S)		
Senator T.A. Le Sueur		Deputy J.J. Huet (H)		
Senator P.F. Routier				
Senator M.E. Vibert				
Senator P.F.C. Ozouf				
Senator F.E. Cohen				
Connétable of St. Ouen				
Connétable of St. Clement				
Connétable of St. Helier				

Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

The Bailiff:

Deputy Southern, do you wish to scrutinise the Regulations?

Deputy G.P. Southern (Chairman, Economic Affairs Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

Minister, may I ask you to move the Regulations for the Second Reading.

Senator P.F.C. Ozouf:

I will, Sir. I will say there is just an issue we need to consider under Standing Orders when dealing with these issues of environmental issues. Perhaps it is more appropriate, I do not know exactly what the Standing Orders trigger here is, but it may well be better that this sort of legislation is scrutinised by Environment Scrutiny Panel. I am effectively doing environmental legislation here. I just make that point; that is not available at the moment. Deputy Duhamel does not have that power at the moment. I am happy to answer any questions in relation to the Regulations.

Deputy R.C. Duhamel:

Is it possible under Standing Orders to ask that the legislation be scrutinised by a different Panel?

Deputy S.C. Ferguson:

If I might be of assistance, Sir, under Standing Order 79(7) it does talk about topics rather than Ministers.

The Bailiff:

Standing Order 72 provides for the referral of draft Regulations for Scrutiny and provides that it should be referred to the relevant Scrutiny Panel, and paragraph 7 provides that the relevant Scrutiny Panel is the Scrutiny Panel or Panels assigned Scrutiny of a topic to which the draft relates. Having listened to the Minister, I suppose it could be argued that the Environmental Scrutiny Panel was a relevant Scrutiny Panel for these purposes. If there is any doubt as to the relevant Scrutiny Panel, the presiding officer shall take the advice of the President of the Chairmen's Committee. **[Laughter]**

Deputy S.C. Ferguson:

Yes, I think it is the topic, Sir, and the Minister has already said that perhaps this is more environmental. It is one of these cross-cutting issues, so it could be both Panels.

The Bailiff:

Is there urgency in the matter?

Senator P.F.C. Ozouf:

There is no urgency, Sir, but I would just make the observation, if I may, that it is clear that Deputy Duhamel is against the legislation and it would ...

Deputy R.C. Duhamel:

No, Sir, that is not true, and the Minister should not put words into my mouth.

Senator P.F.C. Ozouf:

He may say that, but he is against the legislation, it is quite clear, to me anyway, in his remarks that he has made. *Hansard* will clearly say that. Effectively, if this is scrutinising for the quality of the Regulations, *et cetera*, then that is fine. Personally, I would have thought... I made those remarks about who may scrutinise it, because I think it is appropriate for that to be done, but personally, I would think that that would be stretching a point to say abuse of procedures, but I mean, I did raise that issue myself. Deputy Duhamel appears to be against this. There is no particular urgency of it, but he has not signalled any question time to me previously to the Assembly date today. I do not believe he has been in contact with officials in relation to this, and I think the case has been made, and I think it should be up to Members to decide whether or not they are prepared to accept the legislation. I have explained it, answered questions to it and I would be a little exasperated if effectively we were to be blocked at this stage by somebody who is clearly against it.

Deputy R.C. Duhamel:

Perhaps I could make a comment to those unhelpful comments, and if the Minister would care to read his Standing Orders, he will know that the principle of the Law has been agreed and this would be for the purposes of scrutiny of the legislation.

The Bailiff:

May I ask, Deputy, whether you wish, as Chairman of the...

Senator M.E. Vibert:

Could I suggest that it may be useful if the Environment Scrutiny Panel could meet during the lunch break to decide what they want to do, and I would like to propose the adjournment?

Deputy R.C. Duhamel:

Standing Orders do state that I am entitled to go away and think about it and come back and inform the House at a later stage.

The Bailiff:

Deputy, you are quite correct in that respect. The Chairman of the Chairmen's Committee has indicated that she thinks that the Environmental Scrutiny Panel is an appropriate Scrutiny Panel or a relevant one, so I am asking you whether you wish to scrutinise the Regulations.

Deputy R.C. Duhamel:

I think I would have to have discussions with my Panel over that, and I would ask that the House stops the discussion of this particular issue until such a time as I am able to ask the rest of my Panel to come back and inform the House in the appropriate way, but that will not necessarily be after lunch, because there are other meetings taking place.

The Bailiff:

I do not think that is good enough, I am afraid, Deputy. I think the Scrutiny Panel must determine at the time when the principles have been adopted whether or not it wishes to scrutinise the Regulations or not.

Deputy R.C. Duhamel:

If that is your ruling, Sir, then I will take the opportunity over the lunch break to speak with the relevant people.

The Bailiff:

We will deal with this matter when the Assembly reconvenes.

Senator P.F.C. Ozouf:

I do not wish to be particularly difficult, but in the interests of transparency, could the Greffier please confirm whether or not Deputy Duhamel voted against the preambles, just so that we are absolutely clear in transparency where people are coming from.

The Bailiff:

You are entitled to ask who voted against the principles of the Regulations. Greffier?

The Greffier of the States:

The following Members vote contre: the Connétable of St. Mary, Deputy Duhamel and Deputy Huet.

Senator M.E. Vibert:

Can I propose the lunchtime adjournment so that this can take place?

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

It is proposed that the Assembly adjourn.

The Attorney General:

I wonder, Sir, if I might go very briefly to the Health Implementation (Jersey) Law, just for 2 purposes, the first of apologising to Members that I was not on top of the matter when it was debated; and second, to confirm that having looked at my electronic filing system, which I am privileged to have here, I can confirm that there is an international obligation which affects Jersey under the World Health Organisation treaty and that these provisions were designed with that international obligation in mind, which I think was the question.

The Bailiff:

Thank you, Attorney. Members agree to adjourn until 2.15 p.m.

LUNCHEON ADJOURNMENT

The Bailiff:

Deputy Duhamel, I understand that following this morning, you were asked whether you would like to have the matter referred to in effect your Scrutiny Panel.

Deputy R.C. Duhamel:

Yes, Sir. I am taking from a sounding from my Panel members. It has been agreed that we would like to look at it.

The Bailiff:

You would. Very well. Well, in that case, under Standing Orders, the debate is adjourned. I think the States must discuss as to when the matter should come back. Deputy, how long do you require?

Deputy R.C. Duhamel:

I think I am entitled up to 4 meetings, is it, so I think we will say we will bring it back inside that, but if it takes the 4 meetings, then that will be the time. We will try and bring it back earlier, but I will ask for 4.

The Bailiff:

The 4 weeks would be when then, which sitting? Well, we have 2 matters, first of all to fix the date, which it would then be the 1st July States meeting; and then second is to record the imposition of yet another fine. [Laughter]

8. Health Services Disciplinary Tribunal: constitution and appointment of Members (P.37/2008)

The Bailiff:

Very well, so we move next to Health Services Disciplinary Tribunal: constitution and appointment of Members - Projet 37 - lodged by the Minister of Social Security. I will ask the Greffier to read the proposition.

The Greffier of the States:

That States are asked to decide whether they are of the opinion to appoint in accordance with the provisions of schedule 2 to the Health Insurance (Jersey) Law 1967 the following persons as Chairman, Deputy Chairman and lay members of the Health Services Disciplinary Tribunal for a period of 3 years from 1st June 2008: Advocate David Eldon Le Cornu, Chairman; Mr. Conrad Coutanche, Deputy Chairman; Mr. Colin Henry Letto, lay member; Mr. Philip J.A. Le Claire, lay member; Mr. Nigel Collier-Webb, lay member.

8.1 Senator P.F. Routier (The Minister for Social Security):

The Health Services Disciplinary Tribunal needs to be in place in case there is ever a need to consider whether a G.P. (General Practitioner) or a pharmacist's conduct is believed to have been prejudicial to the effective administration of the Health Insurance Fund. They have only met twice in 40 years and did not meet in their last term. After consulting with the Appointments Commission, I am pleased to be able to propose the 3 previous members, Advocate David Le Cornu, Mr. Conrad Coutanche and Mr. Colin Letto. There was also - I am pleased to propose - 2 totally new members, Mr. Philip Le Claire and Mr. Nigel Collier-Webb. Their C.V.s (curriculum vitae) are within the proposition. I would also like to take the opportunity to thank 2 people who are standing down, Mrs. Ruth Syvret and Mr. Philip Daubeney, for the commitment to at least make themselves available for the Tribunal. I propose the Tribunal, Sir.

The Bailiff:

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

8.1.1 Deputy G.C.L. Baudains:

I am just hoping these people are young enough to live until the next meeting. I would seek clarification, Sir, I presume it is another Ministry that is responsible, because I notice under the introduction, we are told that this is for those people whose conduct is believed to have a prejudicial effect on the administration. I am just wondering about those doctors or pharmacists who might have a prejudicial effect on their patients or customers? I presume that goes with another Ministry.

8.1.2 The Deputy of St. Martin:

Yes, just a couple of small points, Sir. I have never met Mr. Nigel Collier-Webb, but I am just wondering, in fact it says he has worked for the States of Jersey Police; in what capacity, that is one question. The other question is - and I did check with someone who had a former life in it - I gather that the States of Jersey Police no longer have the "Force"; the name "Force" has now dropped from it. It is just a typing error, but some of us do read propositions. Would the Minister now confirm that in actual fact, this is States of Jersey Police, not States of Jersey Police Force, as shown in the report?

8.1.3 Deputy J.B. Fox:

Just to say that Nigel Collier-Webb was a respected member of the States of Jersey Police and has been an all-round police officer for many years before he retired.

8.1.4 The Deputy of Trinity:

Just a very minor point. I just notice that they are all men and there is not a woman included in that, which I think perhaps with a bit of hindsight, women might be included.

The Bailiff:

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

8.1.5 Senator P.F. Routier:

Deputy Baudains highlighted the issue that the members had not sat very often and that hopefully they would be alive in the future. It is quite right about the function of this tribunal. It is solely about the appropriate use of the funds which are administered within the Social Security Fund. If there is a matter with regard to the ethical behaviour of a G.P. with regard to medical practice, that would be the Health and Social Services Department that would follow that up. I thank Deputy Hill for identifying the incorrect use of the word "Force" and Deputy Fox for informing us of the qualities of Mr. Nigel Collier-Webb. With regard to it is all men and we should have some women, I would have welcomed some women applying, but unfortunately, none did apply. But if they were to apply, they would be given equal opportunity, I presume. I maintain the proposition, Sir.

The Deputy Bailiff:

All those in favour of adopting the proposition, kindly show.

Connetable G.W. Fisher of St. Lawrence:

Can we have the appel, Sir?

The Bailiff:

Yes, the appel is called for in relation to the proposition of the Minister for Social Security. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 37		CONTRE: 0		ABSTAIN: 1
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Senator L. Norman				Connétable of St. Lawrence
Senator F.H. Walker				
Senator W. Kinnard				
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator M.E. Vibert				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Clement				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

9. Draft Harbours (Amendment No. 41) (Jersey) Regulations 200- (P.39/2008)

The Bailiff:

Very well. We come next to the Draft Harbours (Amendment No. 41) (Jersey) Regulations - Projet 39 - lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Harbours (Amendment No. 41) (Jersey) Regulations 200-. The States, in pursuance of Articles 4 and 4A of the Harbours Administration (Jersey) Law 1961, have made the following Regulations.

Senator P.F.C. Ozouf:

May I ask my Assistant Minister with responsibility for harbours and airport to be rapporteur for this item. I think the issue is going to be an Economic Affairs Scrutiny Panel matter, Sir.

9.1. Deputy A.J.H. Maclean (Assistant Minister for Economic Development - rapporteur):

This Assembly approved amendments to the Harbours Administration Law on 5th December last year. I now ask Members to consider and hopefully approve these consequential amendments to the subordinate Regulations. There are 2 broad issues behind these reforms. Firstly, a review was carried out as part of the red tape reform initiative. As a result, a number of improvements were put forward aimed at making a more effective set of Regulations. The changes will also create a clearer separation of the political responsibilities of the Minister on the one hand; the professional and enforcement duties of the Harbour Master on the other. Secondly, and more importantly, however, Members will, I am sure, remember all too well the difficulties that arose concerning the end of Emeraude Ferries. It was made clear to the Harbours and Airport Committee of the day that the Ramp Permit Regulations were simply inadequate, particularly as a tool to decide as a matter of Island policy how many ferry services should indeed be licensed. It is States policy that the Island should have year-round, reliable, frequent and affordable ferry services, yet the current Regulations relate solely to the control of ramps for vehicles, and are therefore not capable of enforcing, where necessary, agreed States policy. What is more difficult perhaps is that the conditions that we attach to ramp permits must at the moment be quite narrowly drafted, and cannot relate to other important issues, such as important consumer protection issues, or indeed, the changeable socio-economic needs of the Island. This is particularly relevant to island communities such as ours that rely so heavily on our transport links. As Members will know, we have done what we can through the use of service level agreements to address such matters. However, these agreements have proved little more than gentlemen's agreements, with no force of law behind the terms and conditions that they contain. The failure of the S.L.A.s (Service Level Agreements) as an instrument of policy was recently demonstrated quite spectacularly when, no doubt for their own very good reasons, HD Ferries declined to sign their S.L.A. last month, and therefore are currently operating without such an agreement. This is currently because we have no legal power to enforce the signing of an S.L.A., or indeed, for that matter, to enforce the terms contained within one. It does help if government manages to get ahead of a situation, rather than trying to play catch-up, as in this case. To some extent, these Regulations are unfortunately overdue. It would have helped to have them before the beginning of competition on the Jersey St. Malo car ferry route. If Members agree to pass these Regulations today, the Assembly will at least allow 2 crucial matters of policy to have real effect. New ramp permits will be issued, minimum service levels will be clearly underwritten by a published policy which can be found under Regulation 56A, and which can be seen in appendix 2 of the documentation that Members will find before them. This is backed-up and can be backed-up legally by the conditions specified in the car ferry permits. We will no longer have the situation with a States policy saying there must be S.L.A.s and companies choosing whether or not to commit to them. If we get competition for car and passenger service en route to the U.K. - and I say "if", because I believe that is probably only a matter of time - then the Minister, and through him, the Assembly, will be able to act decisively. We will be able to authorise the Harbour Master to grant a permit, or to impose sensible conditions, or if absolutely necessary, to refuse a permit without the fear of not having the power to do so. I should add that not all important consumer protection matters are best satisfied either through service level agreements as discussed, or indeed, ramp permits. Such matters would be most appropriately and effectively dealt with through strong consumer protection legislation. That is how we should seek to protect consumer interests and is a matter that Economic Development are taking seriously and are looking at bringing forward suitable legislation. We hope that it will become part of a package of measures that already includes the Consumer Council, Trading Standards, and of course, J.C.R.A. (Jersey Competition Regulatory Authority). Before summing-up, I should add that the draft Regulations were formally issued for consultation on 6th November 2007. In fact, discussion was very much ongoing with Guernsey and the J.C.R.A. long before that. Meetings were held with port users even before the primary law amendments were brought to the Assembly. Correspondence with key stakeholders and the J.C.R.A. then continued past the official deadline, and almost up until when we were ready to lodge the Regulations. The J.C.R.A. were specifically asked to review and comment on the draft Regulations. As a result, they raised a number of legitimate concerns which

have helped to amend the draft. They acknowledged the improved level of transparency. This is achieved by the explicit requirement for applications for permits to be published and the need to formally consider all third party concerns. The J.C.R.A. were concerned if the draft gave enough legal certainty, and in response to this, redrafting led to Schedule 1 - which Members will find among their pack - Schedule 1 being added to the Regulations explicitly defined the objectives that should underpin decisions of the Harbour Master when designated facilities, issuing permits or negotiating agreements. Additionally, following the J.C.R.A.'s advice and some concerns raised by port users, the Harbour Master now has a duty specified under paragraph 4 of Schedule 1 not to show undue preference or to discriminate unfairly. The report goes into considerable detail about this process. Not everyone agreed; not all stakeholders agree now. However, we have made significant changes along the way in response to constructive criticism. What we are now left with is a set of changes that can work, and which I believe have been accepted by most people who were involved. Do we have a choice? Yes, of course. These Regulations can be rejected. That is the prerogative of course of Members. However, the administrative changes I am proposing are by and large common sense changes reflecting the necessary modernisation of a law that was first introduced some 46 years ago. These changes will, in particular, reduce bureaucracy and increase effectiveness. They are, I believe, fit for the purpose of managing a modern day port, in the context of an island community and its sometimes specific and understandable demands. The new permit and agreement Regulations could also be rejected by the Assembly, but where does that exactly leave us? We would quite simply be left with no effective ability to manage ferry services to and from the port, and we would go on having a considerably grey area and not very transparent area of jurisdiction over other matters such as stevedoring. If that were to happen, it is important that Members understand that we are certain we could not continue with S.L.A.s that are currently in operation with Condor, while accepting there were none in place with HD Ferries. That of course would be unfair, and in fact, totally inconsistent. Legally, the existing ramp permit procedure would have to continue, but with no requirement for a public process or transparency. Conditions attached to permits would be limited largely to matters of safety, and we would probably be unable to insist on conditions such as winter service, for example. Permits could not be rejected on the grounds of public policy, even if we had enough evidence that the total number of ships proposed for a route was too great for the market and unsustainable. Our ability to run a tender process and indeed to grant a franchise would also remain strictly limited. I am afraid I predict instability and uncertainty if we are not in a position to give clear and enforceable directions as to the minimum standards that should be adhered to for sustainable competition to take place. I shall of course go through all the details after we have voted on the preamble. In the meantime, Sir, I propose the preamble.

The Bailiff:

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

9.1.1 Deputy S. Power:

The first thing I would like to say is that this proposition goes a long way towards removing a system that did not work, which is the ramp permitting system and service level agreements. I have a series of points that I seek clarification on from the Assistant Minister. The first one is - and I would like him to comment on this - the proposition wording gives the impression that there are a number of competing roll-on/roll-off operators, when there are only 2. One operator only has one ship and the other operator has 5 ships, and historically, this has been a problem area, and rightly or wrongly, these Regulations will be perceived by potential new operators as very restrictive. The second point I would like clarification on is he uses the phrase "minimum standards" and it is almost impossible to define, and indeed to clarify the statutory effects that are set and enforced by international legislation outside the Island, and I am not quite sure what Jersey means by this, because in the past, service level agreements have been signed, say, for example, between the States and Condor on the northern route and the effect of minimum standards on that was to keep

out competition. I express the opinion, Sir, that this is a subjective area and will have to vary between companies. I do not think Jersey is in a position to insist on the terms of a permit, because I think that will be restrictive to operators coming into the Island, and I would ask the Assistant Minister, what will happen in the future if this is passed if a company refuses to sign a permit with the department or an agreement with the department, because I would doubt very much if an Assistant Minister would refuse that operator entry to the port. The next point - the third one, I think - is that I would like the Assistant Minister to clarify what powers the Harbours Department would have to punish a company if it does not comply with certain terms, as experience has already shown, and he has referred to one example. I prefer the suggestion that any sanction against a company would just make matters worse. The Assistant Minister gave one example. I will give 3 more: one was that HD did start their operating life in Jersey last year by selling tickets in advance of a ramp permit. How would he now deal with that in this new proposed legislation? The second one is the Minister himself issued a permit to Condor without a service level agreement when time was running out on the original permit that Condor had, and it was a permit that was issued very quickly. The third one is the most recent one, which is HD's refusal to sign any agreement of any kind on a service level agreement, so I would like clarification on that. The next area I would like clarification on is I notice in Appendix 5 there is a lot of reference to discussions with Guernsey, but there is no definition in this document as to whether Guernsey is going to bring anything like this type of legislation to their States, and I would like to know where he is and how much discussion has taken place with Guernsey on that, because I think this is a classic example of a pan-Island area, where we need to have agreements on aviation and we need to have agreements on ferries, ports, aviation, meteorology, and this is one that fits right in that area. The last 3 points I would like clarification on is any permitting system or agreement that the Harbours Department have with this harbour amendment, will it also extend to leaseholders at the harbour? Does it extend to property, immovable property, in the harbour area and operators, commercial operators within the harbour area? I am not quite clear on that, as to whether that is covered in this. There was one issue on the presentation down at Maritime House, and it referred to competent port operators being allowed to use equipment and other means of operating within the port. We have a precedent in Jersey Harbours at the moment where there are some operators within the port who do not have qualifications and have been there for 20 or 30 years, and I would like an assurance from the Assistant Minister that those people who do carry out port operations such as tugging and pushing and towing are allowed to carry on unhindered. Finally, I would like to know from the Assistant Minister whether ferry operators or shipping operators such as the 3, Huelin Renouf, Express, Condor or HD would be given a permit to do their own stevedoring.

9.1.2 Deputy J.B. Fox:

We have gone a long way forward in trying to make improvements to our shipping routes over the years, and the economic key point security, which is a term used by the British Government and the Security Services, is there to ensure the well-being of a community such as the size of Jersey and the U.K. So it does have lateral width in its interpretation, means that it is essential that a community can survive and by doing so, it must ensure that in this particular case that its shipping services are adequate to support the community in which it serves. It can cover other things essential, like power and gas, electricity, *et cetera*, all of which are essential to the well being of an island. Companies are important to us, but it is the shipping routes that are more important to us, because without the safeguard of a shipping route, we would not be able to have the choice or the choices of both freight services and lift-on/lift-off, because all these companies have to be commercially viable, unless of course they are provided a subsidy by the state, which in Jersey's case, it is not so, although there is some ancillary support by harbours, and no doubt the airport in the airport side of things. From my point of view, I very much am concerned with the frequency of vessels and the method that the vessels arrive and depart from the Island. If we do not have frequency, then we lose valuable service in the off-summer season, and especially in the winter season, this Island will suffer badly. Increasingly, there is a need for all year round services, and to

do that, we need to have the legislation available to ensure that services are provided, but we also need the goodwill of the operators to be able to ensure that they are provided at the times and on the days that people want them. This is especially so when you come to look at our fishing industry and our fresh fruit and veg industry that wants to export out of the Island. Without such services, we would not be able to compete with other operators or other countries and therefore it is essential. Likewise, if us Islanders and the consumers are not given a good service, then we either look at alternative travel, air travel and hire cars are the obvious alternative for flying in and out, but it is not so easy if you happen to be a student and require taking your worldly goods and belongings to and fro from university 3 times a year. So again, that is an area of consideration that needs to be given. Other areas of course is what the Assistant Minister has already discussed, it is a strong consumer protection legislation and without such strong consumer protection legislation, this Island is not going to be in a position to have the enforcement that might be necessary on some occasions. In the old days when Sealink was operating, it did not matter how many boats were running. We did have a Channel Islands operation, and I suspect there were no agreements written formally than there are nowadays, but there used to be a direct ship that went to Guernsey on its route round to Jersey and back to the mainland, and likewise, there was a direct route to Jersey with another vessel that used to go round then to Guernsey and back. This is not so nowadays, and the vessels then carry on to France and back again. So it is an area that I see that improvements could be made with longer-term discussion. This Island deserves to have a direct route and that is important. The other thing this Island deserves is that the companies, where possible, can work together. Many a time in the past, where a vessel goes down because of engine failure or the vessel is not of the type that can travel necessarily at a tidal condition or through a weather condition, the competition has supported each other, and they help each other out. Regrettably, it does not appear that nowadays that this is so readily available, and it is a shame really, because each company will have periods when a vessel will go down or the weather will prevent it from operating, and I certainly would like to see an encouragement by the authorities and by all of us to support, that we work in co-operation with each other to try and improve that that exists at the moment. It will only benefit us, whether it be the Island for the importation/exportation of food and our other valuable goods, the export of our fresh vegetables, *et cetera*, like new potatoes, for the consumer, for the local consumer going to and fro, whether it is to the mainland or to France, to the tourists alike, but we want some fairness put into that, and I think that is where we need a strong consumer legislation. There is nothing more infuriating to a local person to hear a conversation on board ship of somebody that is going from, shall we say, the U.K. mainland through to France and find out they are paying probably less than half price than they have paid to get on the boat at Jersey and then on to France. Those sort of things do not come under my feeling of natural justice and yes, there are promotions, but they do not seem to be balanced across the board. These are the sort of areas that I think we need to encourage people to provide better promotion, especially during those parts of the season where one would like to fill one's ships up further, but also to encourage our Islanders to travel, to broaden their horizons and allow them to enjoy the merits of the nearby coast, whether it is in France or the mainland. I support this proposition. It goes a long way further than what has been had up until now, but we still have some way to go, and certainly a lot of degree of competition to be discussed and support of both Guernsey and Jersey and the other ports to make this a continued, successful area of operation.

9.1.3 Senator B.E. Shenton:

Be careful what you wish for. The trouble with a Rolls-Royce S.L.A. or Rolls-Royce service level agreements is that ultimately, the public of this Island will have to pay Rolls-Royce prices to get on and off the Island. I find this piece of legislation to be very anti-free market and I would like the Assistant Minister to explain how this compares with the policy at the airport, where competition is subsidised, rather than discouraged. I get the impression sometimes that certain parts of the civil service do not understand the concept of risk. Obviously if someone wants to run a ferry route, they have to put up a significant amount of capital, and for the Government to turn around and

dictate when they will sail, at what times and what frequency without any sort of look towards the return on the capital invested seems to be rather poor, and what it could end up doing is discouraging any competition on either the northern or southern routes leading to much higher prices for the public of Jersey to get on and off this Island. So I would just like to reiterate what Deputy Power has said, and I would like to know what will happen if HD Ferries do refuse to sign up, because certainly if I was M.D. (Managing Director) of HD Ferries, I would refuse. Secondly, we have a stevedoring company, which I have no connection with, but I believe that members of my family in the past may have, and this is a general question, but I would like to ask the Minister whether there has been any noticeable decline in stevedoring charges since they have become very heavily regulated by the Government.

9.1.4 The Deputy of St. Martin:

I want to follow on a little bit along what Deputy Fox was speaking about, because I think we have a very fine balance to get a legislation that protects the consumer as well as the operator, because without the operator, the consumer cannot travel; but likewise, without the consumer, the operator is not going to be in business. I think, looking at this, obviously a considerable amount of care has been taken to try to get that balance right, and I suppose only time will tell whether the balance is right. But I was a little bit concerned looking on page 13 about the appeals and H.R. (Human Rights) compliance, because as was said by amending the Law last year, care was taken to ensure it remained compatible with the European Convention of Human Rights, and then we had a little paragraph here talking about the right of appeal, *et cetera*, but I was looking at the last paragraph that says: "Agreements are just that, agreements, and as such do not have the same appeal process. Nevertheless, the Harbour Master remains under a legal duty to abide by the policy guidelines as stated in Schedule 1." I just wanted to know is that really worth the paper it is written on, because it carries on further on, saying: "Both parties can turn to arbitration to resolve a problem and the port user has recourse to the Administration of Decisions Review (Jersey) Law 1982, if agreed." Well, those who know anything about that particular piece of legislation will know that it is not binding, so even though there may be a recourse to go into that particular body, if indeed the Minister or whoever or the Harbour Master - or whoever it is going to be - decides he is not going to abide by the decision of the board or the recommendation by the board, again the appeal becomes worthless. But what I would like to ask the rapporteur, if he could, does he have anything in mind about giving greater rights on appeal system, and it may be that justice can be seen to be done, because last year, one remembers that HD did have a number of teething problems and there was a feeling that really they were being hard done by, inasmuch that when there an appeal process or some mechanism of asking or must be taken to court, and one felt - or they felt - that they were not being treated in a fair manner, and I am just wondering whether there could be some mechanism whereby if there were appeals, it was not just appealing just to one particular person, but maybe a board of some sort so that in actual fact, it would be some cross-section of opinion put into it. But maybe the rapporteur could give us a little bit of insight into whether that would be possible, but generally speaking, I think this is better than nothing. The proof of the pudding will be seeing how well it works and how enforceable it is, because I think Deputy Power did ask a pertinent question: what about if someone does not wish to participate - do we then lose the operator at the same time; do we want to lose the operator? It is a fine balance and we will have to probably wait and see, the proof will be in the pudding and hopefully it will be successful.

9.1.5 Deputy R.G. Le Hérissier:

I apologise in advance - I had to rush out there quickly - if this has been covered, but I wonder, Sir, if the rapporteur, as was the case at the meeting, could he explain to us if a situation were to arise where both operators, for example, had to offer a year-round service and it was quite clear that economically that was not sustainable, how much compulsion would be built into the offering of a year-round service; and secondly, Sir, when we talk of policy notices, could he tell us their precise status? Are they advisory; are they mandatory or whatever? Policy notes, page 11.

9.1.6 The Deputy of St. Ouen:

Basically, yes, on a similar theme, I am more concerned about the impact or what impact these new Regulations might have on present and indeed future commercial operators who service the Island. We are well aware that we have predominantly one main operator that works on both the north and south routes, and indeed, I believe that the department concerned has declared its support for continuing maintaining or providing support for the company to continue on the northern route as sole operator. However, we are also aware that on the south routes, not only do we have 2 operators, but we have a number of other passenger services that are being operated and continue to arrive on a regular basis. We heard the rapporteur speak about sensible conditions, but equally about discrimination issues and that it was unfair to treat main carriers differently to others. I would ask the simple question, will all carriers be treated exactly the same, or indeed, will sensible conditions vary, dependent on the status of the operator? Thank you.

9.1.7 Deputy G.C.L. Baudains:

I do not envy the Minister or his assistant in trying to resolve this problem. A couple of Members have previously spoken of balance and that is what concerns me, because it must be clear to most people that we obviously need a reliable service and a year-round service on both the northern and the southern routes, but having said that, we also need competition to ensure that prices are as economic to the traveller as possible, but of course, if one then lays down stringent regulations or requirements, should I say, that an incoming operator has to supply the same level of service that the current operator is doing, it may well be out of the reach of an incoming operator, who may wish to start up in a small way and then expand. On the other hand, it is possibly not to our advantage to have one operator supplying a year-round full service and another one just taking the cream of the service during the summer and not supplying a service at all during the winter. What I am concerned about is how on earth the Minister is going to achieve that balance, how we are going to ensure a reliable continuing service without it creating a disincentive to newcomers to the market that may provide competition.

9.1.8 Deputy C.J. Scott Warren:

I was concerned when it came to light some weeks ago that one ferry operator was refusing a service level agreement. I totally support the involvement and input of the Jersey Competition Regulatory Authority into the draft Regulations and I look forward to receiving further clarification of the concerns that have been raised by Members regarding issues of competition. It seems to me, Sir, that ensuring that Jersey can provide a reliable service for the consumer - for the traveller, the travelling public - is paramount. It is no good, Sir - severe weather being the only exception - for a would-be passenger to book their ticket, only to worry if the operator is really going to sail as the ticket states. Albeit we cannot do anything about very severe weather, but that apart, if you are booked to go, you do expect to go on a service and I think it is paramount that we do have safeguards for the travelling public, so, Sir, I will be supporting these Regulations.

9.1.9 Senator P.F.C. Ozouf:

I know that my Assistant Minister will deal eloquently with many of the questions that Members have very thoughtfully - and I think very well - raised in the debate. I will, however, deal with Senator Shenton. He raised stevedores; I did not. I notice that when he made some comments in relation to economic development and some decision-making in relation to certain sea routes, he spoke of apparently an Ozouf tax. I could very well raise in relation to other matters another surname tax in relation to harbours matters but, you know, that is not an issue. He raised the issue of stevedores and I did not. I think that he does need to be careful, Sir, if I may say, to say that he does have some connection with some issues concerning the marine matters. He, I think, is well briefed. Certainly I would have been if I would have been a stevedore's son or a farmer's son, I would have certainly been very well aware of some issues concerning the port, and indeed, I would have thought that Senator Shenton would have been very well aware that there were some

important differences between our sea routes and our air links. He apparently cast some doubt over the policies of Economic Development in relation to supporting airlines. Can I suggest to Senator Shenton that he attends upon the department, as I have asked him at the Council of Ministers, to come and get a briefing on what we are doing at Economic Development? He will know, I hope, and if he does not, then let him have a briefing so that we can understand effectively that we are and previously had a very successful intention in this Assembly of boosting tourism. We have put tourism money into tourism marketing, but now we are doing that in partnership with airlines, and may I say to the Senator that it is working. Last year, we saw passenger numbers up and I say to the Senator through the Chair - Sir, I am looking at him, but I am speaking through the Chair - I would suggest to him, Sir, that those policies are working, because we are getting more passengers in. There is a fundamental difference in respect of airlines and our sea routes. Deputy Baudains has thoughtfully suggested that there could be issues which we need to deal with of whether or not there is a natural monopoly, and only one operator that can deal with that U.K. route, and that is the difference between the regulatory approach, between the Open Skies policy at the airport and the tougher regulatory environment that we need to be putting in place at the harbour. If you cannot have competition, the proxy for competition is regulation, and I am not suggesting that this is regulation in that J.C.R.A. sense, but certainly it is in some form a way of regulating to ensure that the market is operating, and that is the special circumstances. I can say to the Assembly that in relation to the northern route, there is a real debate, there is real research that needs to be taken about whether or not that route can take a long term second operator, and we are going to be asking the J.C.R.A. to inform us further in relation to the issue of the northern route by asking for some particular work to be done on that. I will just deal with Senator Shenton's issue: to say that we can have open ports as we can have open seas I am afraid is just showing a fundamental lack of understanding of the marketplace, and perhaps he would carry out some research on his own, and he should perhaps know better. Many of the other questions that are dealing with the issue I am sure that my Assistant Minister will answer more eloquently than I could.

The Bailiff:

Does any other Member wish to speak? Very well, I call on the Assistant Minister to reply.

9.1.10 Deputy A.J.H. Maclean:

I will try to be brief and answer Members' questions as clearly as I can. Deputy Power raised a number of questions. He was seeking clarification with regard to roll-on/roll-off operators, the number of ships he pointed out that we currently have. In a nutshell, the new regime is not designed to be restrictive. We are committed to competition. We believe that competition is the way in which we can meet most of the aims that we hope to deliver and most of the policy aims in terms of price, frequency, robustness of service and so on. It is the way in which the broad parameters of these Regulations are laid out, we can in fact decide at some point in the future, should this esteemed Assembly so choose to in fact direct that permits are not required, but the Law is flexible. There is a great deal more flexibility in these Regulations than indeed is the case currently. So I do not think there is a great deal of concern with that particular point, but the Deputy asked a question about minimum standards. Well, the terms of the permit are going to be published. The process is indeed far more transparent than it was or currently is at the moment. The permit is published; we invite comment on the published permit; there is a 2-week period; there is no need for signatures as far as the permits themselves are concerned, and this is an important point. We are not requiring operators to sign a permit. It is a permissive regime. The permit is issued with some conditions to the operator; it is published. Third party concerns can be raised and have to be listened to and indeed would be listened to and the permit is then in force. The Deputy asked questions regarding powers to punish operators. He raised in particular a point about HD Ferries selling tickets before they had a permit in place. Well, that is an issue frankly that...

Deputy S. Power:

Sorry, I raised 3 points: 2 were to do with HD and one was to do with Condor.

Deputy A.J.H. Maclean:

That is fine. The point that I would make on this is that it is essentially a consumer legislation issue. We do not have consumer legislation or effective consumer protection legislation in place. That is something the department is working on. It is absolutely essential that we bring that forward, because it is issues such as that which are potentially fraudulent, illegal, however you want perhaps to view them, but it is a consumer protection issue and should not be dealt with by permits. There is of course a position that depending on the operator's infraction or perceived infraction there is a possibility of issuing a fine, but the way in which we would view most of the infractions that would come forward would be to deal with it in a level and even-handed way - commonsense has to prevail in these instances - by warnings, and only after the imposition of warning should an operator continue to not meet the necessary requirements, then of course we have the position now to be able to fine, whereas under the current legislation, we cannot do so. The Deputy asked a question regarding Guernsey. We have a policy, an agreed policy stance with Guernsey which quite rightly is a joined-up policy in terms of what we are attempting to achieve between the ferry routes. It is important that the Islands are joined-up in this respect, but I think the Deputy was in particular aiming at what Guernsey are intending to do with the way in which they administer their harbours and their in-harbour policies. Well, that is something that we are not discussing. That is a matter for Guernsey and for the States of Guernsey to decide exactly how they do it. We are dealing at a high level, ensuring that our policy aims and objectives are joined-up, as indeed they should be, and we believe that has been achieved by the policy statement, which indeed is shortly going to be going to the States of Guernsey for their ratification. There was a question again from the Deputy concerning stevedoring, and he asked a question in particular about whether or not permits would be required or any form of licences would be required for self-stevedoring. There would be a requirement for a permit and conditions; again, it would have to be published and be subject to review, third party comment and so on. If the stevedore that was wanting to do self-handling was wanting to use facilities on the quay, there may be a separate agreement required, depending on the service they were planning to use, and an agreement would be negotiated along those lines. I think that covers all your points.

Deputy S. Power:

Sorry, I have one final question about port operators and their qualifications.

Deputy A.J.H. Maclean:

Sorry, could you elaborate on that?

Deputy S. Power:

Am I allowed to elaborate, Sir?

The Bailiff:

Yes.

Deputy S. Power:

I do not intend to make a second speech.

The Bailiff:

No, just to ask the question again, remind him.

Deputy S. Power:

My question was related to the employment of port operators or the use of port operators in the port. There are existing port operators that provide tug services, that provide pushing services and

they are not qualified. They have graduated through the system over the past 10, 15, 20, 25 years. I want the Assistant Minister to confirm to the Assembly that the position of those port operators, even though they may not have what is called modern maritime licensing or qualifications, that their positions will be protected.

Deputy A.J.H. Maclean:

There is no intention to issue permits, if that is what the Deputy is getting at, to small operations of that nature. There are only 2 areas where permits are believed to be required or intended to be used where they are currently at the moment with the sea routes, with roll-on/roll-off ferry operations, car and passenger vessels, and the other area is stevedoring, which we have discussed a moment ago. There is no intention to issue permits to small operations around the harbour. That is not something that we believe would be beneficial at all. Moving on, I thank Deputy Fox for his support to these Regulations. As ever, he takes a great deal of interest in sea routes. He has made a great deal of contribution to a lot of the success that has been achieved in developing our sea routes and I thank him for that, and again today in his speech, he has raised a number of points that we are aware of. He has discussed them with us and we are working hard to ensure that we can meet these concerns, because they are, on the whole, extremely justified: frequency of service year-round; we have clear policy statements, the policies that are agreed with Guernsey are the sort of policies that Deputy Fox I know agrees with. We need sustainable year-round services at fair prices. Consumer protection legislation I think, Deputy Fox, is something that you are very keen on, and you are absolutely right. He also raised a point which is one that has come up before, Sir, regarding round trips and the way in which sea routes operate. I can tell the Deputy, Sir, that Condor in fact this year are laying on more direct sailings between the U.K., Jersey and France than they were last year, which is good news for Islanders, and the only area of potential contention is with regard to freight services which do come through the Islands. They come through on a consistent basis. The purpose behind that is to ensure that freight, when it is landed, is landed at a regular time, and that the distributors, the logistics companies, Ferryspeed and Condor are able to distribute to wholesalers and retailers at a regular timing basis. We operate now on a just in time society and it is because of that that those particular freight services, it is absolutely essential that they have some form of structure. But at least we have more direct routes running from the U.K. to Jersey and France which is very encouraging. Sir, Deputy Fox also raised points about co-operation between operators. I would add to that, that I think it is essential that both Government as well as operators co-operate together to ensure that we deliver the most appropriate services that the Island rightly deserves. Without co-operation from all parties it is not going to work, but to legislate or to suggest legislation that would perhaps force an operator to ensure that they co-operate with each other, for example, moves to an area that Senator Shenton was referring to. Barriers to entry we have got to be very careful in the way that we legislate it. If we have too much of a heavy-handed approach to this we will without any shadow of doubt ensure that consumer prices - ticket prices - will end up going up. That is the bottom line. We legislate. We get it wrong and we legislate too much and we are going to see consumer prices going up and we will not see the sustainability of our sea routes. It is a difficult balance. It is a very difficult balance to get to. Moving on to Senator Shenton, it is very difficult to know what to say after Senator Ozouf has made his comments. The Senator talked about Rolls-Royce services. He talked about S.L.A.s. He suggested that in fact these Regulations are anti-competitive. I absolutely, completely and utterly disagree with him. They are not anti-competitive at all. In fact this is far more of a light touch permissive regime than is currently in place. It is wider; it is broader; it is more modern; it is appropriate to a modern port; it is appropriate to the circumstances that we find ourselves in currently in terms of dealing with our sea routes. Barriers to entry, yes, in fact it was a very valid point raised by the J.C.R.A. We invited them to review these Regulations, which they did. They made a number of suggestions. Barriers to entry was an area that they were concerned about. Permits, they were concerned about. We have to be very careful how we administer this and in that respect the Senator is right, but we are not blindly moving forward adding regulation after regulation and condition after condition. We want

to encourage operators to come and operate to the Island, but he has to understand that the harbour is entirely different to the airport. The airport has multiple airlines and multiple routes, multiple-choice and, yes, we are providing incentives in some areas with landing fees and other mechanisms to ensure that we sustain our air routes and that is exactly as we should be doing it. It is a return on investment. We make an investment to ensure we deliver people to this Island whether it is for business or whether it is for leisure. Sir, I believe that if we look at the figures, the increased number of passengers coming through the airport demonstrates that the policy is clearly working. I think it is hard to argue with the facts. However, at the harbour we have only got a limited number of operators. We do not have the choice, sadly, and in fact the numbers of people using ferry services is diminishing. The fast ferries are expensive to operate. Operating costs are continuing to rise. Oil prices are continuing to rise and we may indeed, before too long, find that the fast ferries are a thing of the past. They are competing against the low cost airlines. It is a competitive market and it is something that we have to be extremely weary of when ensuring that we have got the appropriate Regulations and in my opinion a light touch regime in place. The Senator also made a comment about stevedoring. The stevedoring services have been out to competitive tenderers, the Senator and Members will be well aware. I am hoping to be in a position within a matter of a day or so to be able to announce both the result of the tender from the stevedoring and indeed further details. So, I would at this stage reserve any further comments, but I will be making a public statement on that matter within a day or 2. Deputy Baudains, Sir, raised some similar points. He was quite right when he said the matter is extremely difficult to juggle to ensure that we get this right. The balance between reliable services, robust services and a fair price, as I have said, is difficult to achieve, but one that we believe that these Regulations give us the broad parameters to be able to achieve. We have to be certain that should new operators come along and should it be sustainable in our view when we look at the dynamics of the market, what it is that they are bringing to the Island in terms of service, we have to be sure it is going to work. We have a fair and solid balance, in my opinion at the moment, with car carrying and passenger vessels north/south. We also have a passenger-only service and new service recently started, Corsair, is bringing good competition to the market, Sir, and I think it is important that consumers are given the most attractive opportunity to travel to the continent, but we have to make sure that it is a lasting service and the services we have got will be maintained and I believe the balance at the moment is right. Deputy Scott Warren asked again about ramp permits. I think I have more or less covered the ramp permit regime on the basis that it is a permissive regime; no signature is required. Terms and conditions are published. There is a right for members of the public - third parties - to raise concerns. Those will be listened to. Very similar to the way the air transport permit system used to operate, and we believe this is without doubt a far more transparent and fair system than currently is operated. Consumer rights, the Deputy mentioned. I know it is a concern of all Members. I have mentioned it, I believe, covered that particular point. My opinion is that effective consumer protection legislation is without any shadow of doubt, Sir, the key to ensuring that we deliver that. Sir, I believe that covers most points. I would just make one final concern. I know that several Members have knocked around the point about the appeals process, should either operators, members of the public, third parties and so on. There are various regimes. The Deputy of St. Martin raised the point about that. It is important. The Administrative Decisions Review Law which is a 1982 law, does lead, I believe, through the Greffier, to an independent panel or board. It is not just going to one person and I am sure the Deputy is very familiar with it. My understanding is that that is a fair and reasonable route as one part. I accept that he has some reservations perhaps, but my understanding, and I would be happy to discuss it with him if he would like to talk to me at a later point, there are various routes for arbitration and of course the Minister can override the Harbour Master by directing him under Regulation 4 on decisions that he made. There is clearly a split here and I will be going into the details of the Regulation in a moment, but there is clearer split between the responsibilities of the Minister and the operational responsibilities of the Harbour Master, but there are the necessary checks and balances in place to ensure that that is effective and appropriate as indeed it should be. Sir, I maintain the preamble.

The Deputy of St. Ouen:

I did ask for the rapporteur to elaborate on the impact that the new Regulations might have on current and existing operators and especially whether carriers will all be treated in a similar manner. I do not believe he has answered that.

Deputy A.J.H. Maclean:

My apologies to the Deputy of St. Ouen; he is quite correct, I have missed him out on my notes there. The impact on current operators: we do not believe, Sir, that there are going to be any particular impact of these Regulations on current operators. The position is entirely the same for this coming season, this coming year. The permits that will indeed have to follow the process that I have outlined previously they will have to be published. They will come back with comments attached to them and they will be put in place, we hope, but the actual terms we do not believe are going to have any particular impact on the operators. We believe that as they were in the previous year both operators that were operating under the permit structure running both north and south had signed up to S.L.A.s albeit that they were not enforceable, as I have previously mentioned, however they were operating to them. So, we do not believe there is going to be any impact. In fact, I must say that despite the fact that HD Ferries have not signed the S.L.A. that was in place, they have had some difficulties that have been well publicised when they started operations this year, but I have to say to their credit that they have operated in a most honourable way, as far as I am aware, in terms of ensuring that passengers have been refunded and so on, as indeed we would expect and as indeed are laid out in the broad parameters of the permit. So, I do not see any difficulties being attached to it. I think it will make little difference to the operation. We would certainly hope that is the case. Forgive me, Sir, could I ask the Deputy to repeat the second part of his question?

The Deputy of St. Ouen:

Yes, Sir. Will all carriers be treated exactly the same or will the conditions vary dependent on the status of that operator?

Deputy A.J.H. Maclean:

The improvement in the proposed Regulations is that this is a far more transparent process than was previously the case. There may well in the past have been doubts by various operators that one was having preferential treatment above the other. Because the permit terms are to be published, I think that hopefully will answer the Deputy's concerns. The treatment will be the same. We are talking specifically about permits that are in place at the moment or will be in place that will be as they are currently and they will be treated on a level playing field. That is the intention, Sir, and it will be published.

Deputy R.G. Le Hérisier:

I did not get my question answered, a variation on the Deputy of St. Ouen. What if, Sir, on the grounds of equity, you require 2 operators to run a winter service when quite clearly the traffic is so thin that it is impossible and what, Sir, do you do in a situation where one operator like Condor has been required to run an all-weather boat? Will you require that of a new entrant to that particular route?

Deputy A.J.H. Maclean:

Yes, Deputy Le Hérisier is going straight to the heart of the issue, Sir, as one would expect. As far as the requirements and barriers to entry with regard to all-weather vessels, I think the Deputy is specifically referring to the northern route. My opinion, Sir, is that the conditions that were perhaps attached to Condor historically were conditions that were particularly severe in consideration of the tender process that had been undertaken. It is not a route that I would necessarily support in the future. I think we need to look at the way in which the market in particular has developed since those days and I would suggest that should an operator come forward suggesting that they would like to operate on the northern route, that we would look at the case of what it is that they have to

offer. We may well consider the fact that there is another operator that already has back-up vessels and we would not necessarily be looking to have a like for like return. Indeed the incumbent operator, sensing that perhaps it was somewhat unfair, may well choose when vessels are having to be replaced that indeed they look to vary the type of ordinance that they operator themselves. I think we need to take a practical view on this; a commonsense view. We need to look at the route as a whole and ensure that operators wishing to operate to the north are not going to destroy or disrupt the chances of sustainability for the future. So, we have to look at all the conditions associated with the offer that comes forward, but there would not necessarily be a requirement for an all-weather boat. It would depend on the entire package of the offer and I think we would have to look at it in those terms.

The Bailiff:

Very well, the matter for the Assembly is a vote on the principles of the Regulations. All those in favour adopting the principles kindly show? Those against? The principles are adopted. Deputy Southern, who is not here, it is a question of whether the matter needs to be referred to the Economic Affairs Committee Panel.

Deputy G.P. Southern (Chairman, Economic Affairs Scrutiny Panel):

No thank you, Sir.

The Bailiff:

No. Very well, now rapporteur, how do you wish to propose the individual Regulations?

Deputy A.J.H. Maclean:

En bloc, Sir, please.

The Bailiff:

Very well, do you propose to say anything about them individually or not?

9.2 Deputy A.J.H. Maclean:

I would hope that I have covered most of the points, but I would invite Members to ask any questions should they wish to and I would be more than happy to answer those. Thank you, Sir.

The Bailiff:

Very well, are the individual Regulations seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations?

9.2.1 The Connétable of St. Brelade:

This refers to my comments part 2(7)(a) principally. I realise this is an area which is eclipsed by the bigger issues, but nevertheless I think this requires comment and I would firstly just say that as a boat repairer I have a degree of conflict, but I think the issue is free enough for me to mention. I appreciate the Assistant Minister being kind enough to confirm there will be some definition of unserviceability in that the wording appears, to the Harbour Master, to need clarification. At a briefing to which Members were invited last week, the Harbour Master concurred, I believe, with a concept that a qualified surveyor would be appointed to advise him should the need arise. It does rather worry me that the Harbour Master could take a dislike to someone and simply have their boat carted off. There is absolutely no question regarding the integrity of the present incumbent, but of course one has to think of the future and perhaps an overzealous successor who could wreak havoc. The difference is that very often you might find that a working, fishing vessel might appear as a very rusty hulk, but in practise is serviceable, yet the most magnificent, white yacht can also be unserviceable, yet appear to general purposes in good working order. So, simply it is a question of definition and I am sure the Assistant Minister will agree with my sentiments. Thank you, Sir.

9.2.2 Deputy R.G. Le Hérissier:

Just on a question and partly building from Deputy Hill's previous point, was any thought given to having an intermediate level of appeal against decisions of the Harbour Master, rather than having to go straight to the Royal Court?

The Bailiff:

Very, well, I call upon the Assistant Minister to reply.

9.2.3 Deputy A.J.H. Maclean:

Yes, I thank the Constable of St. Brelade, Sir. He raised the point the other day and indeed it is a justified point that he does raise. Although there are certain checks and balances in place with regard to a future Harbour Master of course deciding to exercise his powers in a more zealous way than one might perhaps imagine, and I think a common sense approach to this is probably the way to deal with it. In terms of appeals that perhaps an individual who feels aggrieved that his vessel or so on which has been removed from the harbour as has been sitting there unserviceable or deemed to be unserviceable for some time, he can indeed use again the Administrative Decisions Review Law perhaps as an option. He could appeal directly back to the Minister to get some form of recompense. It is not an ideal scenario in certain respects, but there is a significant problem with unserviceable vessels and under Regulation 2 it is something that needed to be clarified and powers were necessary for the Harbour Master. The Harbour Master currently has delegated powers to deal with this matter as we currently stand. So, in practical terms there is very little difference to where we are now other than he has greater powers to remove and ensure that space is freed-up. Members, I hope, will appreciate that the harbour, and the outlying harbour for that matter, but certainly St. Helier harbour is constrained in terms of space and there is a significant amount of vessels and vehicles left sometimes for a considerable period of time and the powers are required to be able to remove those. But the points raised by the Constable are valid and very much taken on board, Sir. As far as Deputy Le Hérissier says, again it is a similar theme, I think, to where perhaps the Constable was coming from, the concern that the way in which these Regulations are going to be or could indeed in the future be applied are going to be too prescriptive and perhaps unfair. There are mechanisms in place which I have mentioned which perhaps one could view as intermediary steps, but if satisfaction is not reached by those then of course there is the ultimate recourse of going to the Royal Court and seeking justice there. I might perhaps call upon the Attorney General to see if he could add anything further to what I have said with regard to this matter.

The Attorney General:

Only to confirm to Members that although there is no statutory right of appeal conferred against decisions of the Harbour Master, it appears to me that the Harbour Master is a public authority, the rights of judicial review will apply and what is more he is a public authority for the purposes of the Human Rights Law and therefore must exercise his functions under the Human Rights Law in a compliant way and that, I would hope, ought to be of some comfort to Members.

Deputy A.J.H. Maclean:

Thank you. I could not have put it better myself. Sir, I think that has answered the 2 questions and if I may propose the Regulations.

The Bailiff:

Very well, all those in favour of adopting all of the Regulations kindly show? Those against? The Regulations are adopted. Do you propose the Regulations in Third Reading, Minister? **[Seconded]** Does any Member wish to speak in Third Reading? All Members in favour of adopting the Regulations in Third Reading kindly show? Those against? The Regulations are adopted in Third Reading. Now, I have been asked by the Minister for Home Affairs if she could supply, I think, the answers to 2 questions which she said she would look into this morning, so Minister?

Senator W. Kinnard:

Yes, the first question, Sir, was that of Deputy Mezbourian and I wanted to give the Deputy an up to date response. Last year, Sir, there was no legislation in place to charge for local officers and the organisers of Jersey Live entered into a voluntary agreement to pay for mutual aid officers. This year, initial discussions have taken place between States of Jersey Police and the Jersey Live 2008 organisers to discuss the event plan. Early indications suggest that while the States of Jersey Police intend to cover the event with existing manpower - that is, no mutual aid officers - there is no provision in the States of Jersey Police's budget for any additional overtime costs. Depending on the policing arrangements agreed finally with the event organisers, it will probably be necessary for the Jersey Live organisers to make some form of voluntary contribution for policing costs. I am assured, Sir, that the recent meeting to agree this approach between the Chief Minister, the organisers, the Economic Development Minister, my Assistant Minister and departmental officers was acknowledged as constructive by all parties. The other question, Sir, was in response to Deputy Pitman and she asked about the Independent Advisory Group. The 5 members of the local group have been put in place to act as critical friends of the inquiry team of the Haut de la Garenne abuse inquiry and as indeed a conduit to the community. It was one of the recommendations of the A.C.P.O. Review Group which audited the investigation recently. The 5 members of the Independent Advisory Group are the Reverend Geoff Houghton, the Minister for Trinity Church and Vice-Dean; Carol Canavan, a retired local lawyer; Kevin Keen, businessman and chair of Chamber of Commerce; Stephen Regal, Jewish Council and adviser to the Force on diversity issues; and Emma Martins, the Data Protection Commissioner. Thank you, Sir.

10. Draft Goods and Services Tax (Amendment) (Jersey) Regulations 200- (P.42/2008)

The Bailiff:

Very well, thank you, Minister. So, we come next to the Draft Goods and Services Tax (Amendment) (Jersey) Regulations - Projet 42 - lodged by the Economic Affairs Scrutiny Panel. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Goods and Services Tax (Amendment) (Jersey) Regulations 200-. The States, in pursuance of Articles 94 and 100 of the Goods and Services Tax Jersey Law 2007, have made the following Regulations.

10.1 Deputy G.P. Southern (Chairman, Economic Affairs Scrutiny Panel):

I did not realise I would be waiting until after gone 3.30 p.m. to be doing this, but nevertheless I will try and get it done fairly promptly. This piece of legislation amendment to the Goods and Services Tax Regulations arises out of the results of our Draft Price and Charge Indicators Review - S.R.16 of 2007 - and fundamentally what it seeks to do is to put into the law balancing rights for the consumer. This is very much a matter of consumer protection and the first is already in place. The right to see clearly the price that will be paid for any goods or services and we have got that because we went for inclusive price marking, albeit the majority of prices will be inclusive with some exceptions; and that already puts a complication into what we do around G.S.T.. But the second one is again, I think, fundamental. It is the right for the consumer to know how much tax is being paid to the Government and this simply says that on any receipt given by a retailer to a customer - to a consumer - that on that receipt there should be marked the amount of G.S.T. paid in the transaction and this is commonplace throughout Europe. If you go to Italy you will see it mandatorily upon any receipt everywhere you go for anything, you get a receipt and on it, it says it is G.S.T. or V.A.T. (Value Added Tax); it is clearly marked. Again, go anywhere in France and time and time again not only will you see the amount of V.A.T. you are paying, but probably one or 2 or 3 rates for different services on there. It is perfectly normal; shops and retailers generally do

this as a matter of course all over Europe. So, it is not a major problem. Nor does it go as far as we might have done. Nor does it say: "You will mandatorily give a receipt". It does not go that far. It says: "Whatever receipt is given, then on that receipt there should be marked a total amount of G.S.T. paid on that transaction." I will just remind Members of what the amendment does say. So, after Regulation 29(4) of the Goods and Services Tax (Jersey) Regulations 2007 the following paragraph should be inserted: "(4)(a) A registered person shall set out in any receipt not being a G.S.T. invoice [and I will return to that shortly] that the person issues in relation to a supply by the person of goods or services the amount of G.S.T. that is chargeable on the supply should be marked." Without it the Panel believes that there is a serious question as to whether G.S.T. will be seen increasingly by the consumer as some form of stealth tax. "I know how much I am paying. I know my prices have gone up, but nobody tells me how much by and how much on any individual purchase or on my shopping or on purchase or on my shopping, how much it has gone up by." Now, this first raises heads with the original G.S.T. law debated on 17th April 2007 and in it the article outlining the display of G.S.T. said: "The States may by Regulations make provision for or with respect to the display, disclosure or other publication otherwise than on G.S.T. invoices [again not on invoices] the G.S.T. chargeable on the supply of goods and services or importation of goods and further these Regulations may require a retail price to be expressed or indicated as a global price that includes G.S.T. without separate mention of G.S.T."; strictly inclusive. Deputy Breckon on behalf of the Consumer Council attempted to protect consumers by introducing the following amendments to these Regulations which said: "These Regulations may require that receipts, among other things, prominently display the amount of the price that consists of G.S.T. and furthermore specify the circumstances in which receipts shall specify the amount of price that consists of G.S.T." It is an important factor for the consumer to know how much tax they are paying. The amendment was rejected and during the course of the debate members of the Executive consistently maintained that the appropriate subject for amendments was the forthcoming G.S.T. Regulations following debate around the Price Marking Law brought by the Minister for Economic Development. That is exactly what this amendment is about. It is amending the Regulations in the proper place and I believe at the proper time in order to bring about that particular right for the consumer. Now, the comments of the Minister for Treasury and Resources raise quite a significant number of factors which, they say, render this amendment absolutely impossible and too difficult to impose, but in fact that is not the case. If Members turn to the comments they will find in the sixth paragraph of the comments, it says quite boldly, and I believe quite spuriously, gives the assumption - the assertion indeed - were this proposition to be adopted it would make the retail scheme unworkable and businesses would be faced with a huge increase in costs, an increase which undoubtedly would be passed on to the consumers. This is simply not true. Why is not true? Because the retail scheme between retailers is the bit that says about a G.S.T. invoice and clearly the amendment says a registered person shall set out in any receipt, not being a G.S.T. invoice - that is the key to the retail scheme, not being a G.S.T. invoice - the amount that is chargeable that is G.S.T.. So, it is, I believe, a mistake by the Minister for Treasury and Resources to say this renders his scheme unworkable. It is simply not true. This is an amendment which deals about the end user, the consumer and the retailer and protection for that consumer. The rest of the comments, indeed when you start to look at them, say things like: "Furthermore the proposed amendment would be unique in comparison with V.A.T., G.S.T. legislation, virtually anywhere in the world." That may be true. This sort of amendment, in this sort of legislation, you would not expect to find. Why not? Because it belongs in a proper consumer protection law and we do not have one of those in the depth to which everybody else has. So, they put it in their consumer protection law, we put it in the best place for it, and when we are discussing with the Law Draftsman where to put it, indeed she came across this issue about the retail scheme and the G.S.T. invoice and at one stage we got into incredibly complicated conversation about how do we amend a G.S.T. invoice, but this is a receipt, that is not an invoice, and we left it with her. We came back with this very simple, very practical amendment which amends a different part, not to the G.S.T. invoice, and is perfectly workable. So, he also goes on to say: It is true that many business throughout the world indicate on

till receipts the element of V.A.T. or G.S.T. within the total charge, but this has always been a voluntary basis and may be seen as a useful marketing tool.” So, lots of people around the world volunteer to do this and we are asking people to do it. I do not see a problem there. Then goes on to make the wonderful assertion: “After the initial impact of G.S.T. most consumers will be far more concerned about the total of their spending than the element of tax which might be contained within that spend.” What a wonderful statement that is. Indeed they will be very concerned about the total of their spending and, I remind people, to the average pensioner couple that will mean £600 spent extra every year, but they will also want to know, because of that - not in spite of that - because of that they will want to know every time they go to the shop: “How much am I paying to the Government and not to the shopkeeper?” It then goes on to say another wonderful assertion: “One should also perhaps look at this proposal from the consumer’s point of view. Indeed, it is a piece of consumer protection.” While in theory the additional information might be useful, the reality is that because virtually everything carries G.S.T. at a single rate of 3 per cent it is easy enough to work out the G.S.T. element for oneself. But the very simplest way is to look on the receipt and see that I am paying X in tax without having to do the calculation of 3 per cent, which not everybody is comfortable doing. Nor should there be any delay at all. Most shops, let us face it, give receipts as a matter of routine. If they do not give it automatically you can usually get one on request: “Can I have a receipt for that?” Done. Does not take long. 95 per cent of all machines will be able to do this calculation at the press of a button. It is not complicated. It is not rocket science. That can be done. It is not about building delay into... rushing into shops, can we be served? Can we wait? It is not a request for a tax invoice. That is something else all together. This is about a receipt. Finally, I will come to the comments that we received from the Director of Consumer Protection. We asked him directly. This is the Constable of St. Brelade: “I note that in some countries it is an obligation for traders to give a receipt. Would you consider that appropriate in Jersey?” His answer was: “It would probably be a good idea.” But we have not gone that far. He then went on to say: “I do not know whether or not the Chamber of Commerce would have a view on whether he would want to force traders to give receipts.” But we are not doing that. We are saying, on a receipt, include G.S.T. Certainly, he says, there are not many that do not. Because if you have to take goods back, or you have a problem with them, what will the trader say to you? “Can I see your receipt please?” The vast majority of traders, let us face it, do give receipts. It is not an enormous burden. Most of them do. We should do and it should say on that the total amount of G.S.T. paid is such and such. It is quite simple. It is quite straight forward. In fact, despite the objections of the Minister for Treasury and Resources, who exaggerates no end, as he often does, this is a move that will protect consumers and I recommend to the House.

The Bailiff:

Are the principles seconded? **[Seconded]**

10.1.1 Senator T.A. Le Sueur:

I quite appreciate and support the principle that consumers should be aware of the facts they will be suffering from next week as a result of the imposition of the introduction of G.S.T. and I suspect that there are few households in Jersey now who can be unaware of the fact that G.S.T. is coming in next week and at the rate of 3 per cent. So, this is not a question to me of consumer rights; it is a matter of consumer information and that information, I believe, is widely available. But Members should also be aware that this tax is effectively being collected on our behalf by those businesses, by those retailers, who are registered for G.S.T. purposes. All those business have different accounting systems and reporting systems and they will range from quite sophisticated electronic point of sale systems to some very basic cash registers, or even manual records still and even though we have set a relatively high registration threshold there are many businesses with turnovers above this level that have good accounting systems but which nonetheless would be unable to meet the requirements of this amendment. I have no wish to penalise those businesses at this time, even though I accept that as a long term objective some mandatory form of G.S.T. reporting might be

considered in the future. Sir, I have published, and the Deputy has referred to my comments on this amendment. They go into some greater detail than he has quoted from, and he has quoted somewhat selectively, but I do emphasise that the timescale for the proposition by the Economic Affairs Scrutiny Panel is indeed totally unrealistic and unworkable. Furthermore, I am afraid both the proposition and the comments from the proposer show a complete lack of understanding of the retail scheme and I can understand that because it is quite confusing. It even had me confused for a while and so I am not surprised if it may have confused some Members as well. It certainly seems to have confused the Deputy. But unless we understand that retail scheme and how it works then the whole purpose of this amendment and the whole basis of why I have to urge Members it is unworkable does not make sense, but when Members understand the retail scheme I think they will appreciate just why this proposition cannot achieve what it sets out to. Because when I began to investigate the matter I thought, rather like the Panel did, that there would be relatively few businesses that could not comply to the requirement to display the G.S.T. elements of the total goods that they are selling. But, contrary to the assertion from the Panel, and I do not know where they get the evidence from that 90 per cent of businesses could comply, I have consulted and asked the G.S.T. office and they tell me that something over 50 per cent of local businesses would be unable to comply at the present time. Not a few, but more than half of local businesses could not comply with the requirement that the Panel is suggesting at this time and if we were to make all those businesses do it immediately the cost to those businesses would run potentially into millions of pounds. Is that what we are trying to achieve? I think we are not, and that is one reason, Sir, why the States agreed last year that businesses could account for G.S.T. in one of 2 ways: those with more sophisticated systems could report their G.S.T. on an individual transaction basis. Those with simpler systems could use a different method, which is called a retail scheme. That retail scheme simply required businesses to add up their total sales for the day and work out a fraction representing the G.S.T. on the total for that day. A very simple system which the basic retailers can easily understand, easily apply, at no additional cost to them and businesses are completely free to choose either the retail scheme, or the more sophisticated scheme, depending on what their systems are able to deliver. What they cannot do, although the Panel seems to think they could, is mix the 2 schemes together because that makes the schemes unworkable and my comments, I thought, made that clear but maybe I did not make it clear enough. I accept, Sir, that over time I would imagine that businesses may move away from that retail scheme towards the more sophisticated electronic schemes but I suggest that it would be unrealistic and irresponsible of us to make every business do that in the next 7 days. Sir, Members may wonder whether this retail scheme is a bright idea that Jersey has and nobody else does. I can assure them that is not the case. This same scheme, this retail scheme, remains in existence in the U.K., in France and elsewhere in Europe, as it has done for 20 years and more and those countries still require that retail scheme 20 years after the introduction of G.S.T. The rapporteur for the Panel seems to think that we can achieve in a week what companies and businesses in England and Europe have taken 20 years and still not achieved. Members may think that the retail scheme remains in place just for small business. Well, Sir, I do not know quite how you define a small business, but I can tell Members that companies such as Woolworths and Tescos still use the retail scheme. Sir, this is, I think, a very simple matter for us to resolve. G.S.T. has been in place in Europe and elsewhere for 20 years or more and yet those countries still feel the need to maintain a retail scheme. In other words, the retail scheme remains a necessity elsewhere and I am sure it remains a necessity here in Jersey. If we pass this amendment today that retail scheme could not be applied in Jersey and the amendment therefore, however desirable it might be in theory, is simply unrealistic and unworkable in practice. Sir, I urge Members to reject this well-meaning, but irresponsible suggestion.

10.1.2 Senator M.E. Vibert:

I will follow what I can only describe as a demolition job on the amendment and it raises for me the question of who scrutinises Scrutiny because if there had been proper scrutiny of this amendment maybe it would not have been brought before the House today. It seems to me that rather than

protecting consumers this amendment would penalise them because it would mean more and more retailers not being able to issue receipts and they do not have to issue receipts under the law, so I think I support the Minister for Treasury and Resources, though it may be desirable, it is simply not practical and must be defeated.

10.1.3 The Connétable of St. Brelade:

It concerns me that the response from the Executive has been somewhat arrogant. Comments regarding additional costs and the retail scheme I feel are rather overrated and that no one is going to be adding up tens of thousands of separate amounts. It is all done by computer these days. The calculations will have been done at the data input stage so the trader will need to separate the G.S.T. element and invoke exclusivity or inclusivity, depending on the type of trade anyway. Most tills give all this information as a matter of course. It is simply a programming issue. I.T. (information technology) has moved on in 20 years and I am sure the Minister for Treasury and Resources appreciates that. I studied the retail scheme at length last night and quite frankly I see it as being perfectly compatible. What the Scrutiny Panel are putting forward is simply that the G.S.T. element is shown on a receipt, not looking for a tax invoice on the receipt, simply showing the G.S.T. Principally we have to consider the public and we are hiding this tax and we must not do that. It is not transparent and I think it is important from the point of view of the traders, that it is made absolutely clear how much people are spending and especially in this transitional period where people just are not going to know. I think it is in everyone's best interests. I appreciate the timescale involved, as the Minister mentioned, but I feel that I think 90 per cent of people involved will have this information in place. There are not many of those trading over £300,000 turnovers which will not have this in place. I would be very surprised and I would urge Members to support the amendment. Thank you, Sir.

10.1.4 Deputy C.J. Scott Warren:

Well, on the face of it this proposition certainly does appear to make good sense and it certainly is right for the Jersey consumer. We are obviously told that there is a major problem in complexity, complexity and complexity and the comments from Treasury and Resources say, and I quote: "To implement the proposals that are now before Members would be totally contrary to the aim of trying to keep G.S.T. as simple as possible and also increase costs, I further mention." In my opinion the words, "G.S.T." and "simple" do not go well together and if you asked a consumer I believe the consumer would think that having the price of the G.S.T. on the receipt... to me, that is a simple and sensible way that a person understands what they have paid. The other comment from Treasury and Resources talks about the department's concerns that Jersey would plough its lone furrow, but I thought, Sir, that that is what we have been asked to do, to not copy the U.K., to not copy any other system, but to go our own way because our way was going to be best. Obviously our way is not best because we are now told that we cannot give this information, or that certain retailers will not be able to, certainly in this timescale. It is not satisfactory. I urge a commitment that this will be possible within a set timescale. Personally, I would like to support this proposition. The timescale, if it really is correct that it cannot be done immediately, there must a way to see that this can be done. I do not believe that it takes 20 years, Sir. What I find hard to understand, Sir, is that a retailer can put on 3 per cent, but they cannot know what that 3 per cent amount is. Are they competent, or are they not, Sir? I do find this very hard to get my head around, I have to be honest, and I believe that the concept behind this proposition is right for the Jersey consumer. Thank you, Sir.

10.1.5 Senator P.F.C. Ozouf:

Deputy Scott Warren has spoken a lot of sense and she is quite right to be concerned. She is quite right when she says that we want a G.S.T. system that is simple. What I would say is that no tax is going to be absolutely simple. No sales tax is going to be simple, but we want it as simple as possible. The fundamental point is that we are dealing with a Regulation. If this Assembly passes

this Regulation this is not an agreement in principle to work on something, this is law that we are going to be making and the fundamental problem that we have is that it is simply going to be impossible to deliver that and for retailers who are going to be obliged to do that in 2 weeks' time. It is very late on in the day and it is impossible. I would even go so far as to suggest that if the Assembly were to be unwise enough to pass this Regulation, effectively G.S.T. could potentially be sabotaged in its implementation. We cannot pass Regulations which require people... it would be law and effectively we should not be passing legislation which we know people could not comply with. To that extent that is not good law and we are not just passing an agreement in principle here, we are passing and proposing law and there will be hundreds of retailers - there could be thousands, I suppose - who would be unable to comply with the law, and this Assembly, I think, takes legislation and takes its decision-making far too seriously to knowingly pass a piece of legislation which they have full knowledge that retailers would not be able to comply with. I would ask the rapporteur to explain what consultation he has had, and his Panel has had, with business. When I saw this piece of legislation I immediately contacted my normal contacts through the Chamber of Commerce, *et cetera*, to understand their views and let there be no doubt that the Minister for Economic Development is the union representative for a shopkeeper, or the person responsible to Chamber of Commerce, I am not, but I have to say, because we have obviously argued against things like price marking, but what has been absolutely clearly said to me by retailers is that this is impossible to achieve at this point. What I would do is I would give Deputy Scott Warren some comfort in relation to the need to review on an ongoing basis the implementation of the new tax. We have settled the system. We have settled the system of G.S.T. We have settled the important issue which she has supported, the issue of inclusive pricing. We must look, and we must implement G.S.T. as is currently legislated, not with this change but immediately that it is in we must start to look at the ways that we can improve matters, that we can improve matters for consumers, that we can make matters even more transparent, and that she has my commitment, and I am sure she has the commitment of the Treasury and Resources Minister so to do. But to pass a Regulation which is simply impossible for retailers to adhere to would be reckless in the extreme and quite the wrong way to pass legislation. If Deputy Southern, the chairman of the Panel, or any of the other Panel members can give this Assembly examples of how they have consulted retailers and they are sure that retailers will be able to comply then I will be interested but I will know that they have been talking to different retailers than I have.

10.1.6 Deputy J.A. Martin:

Well, where do I begin, Sir? Why has this amendment been brought by the Scrutiny Panel, and who is scrutinising the Scrutiny Panel? Well, we did a report last year. These are the people who we were talking to, the retailers, and I would just like... at the time the Minister, Sir, said, how pleased he was that the Scrutiny Panel had come up with what he had hoped they would come up with. What he wanted was inclusive pricing. But let me read, Sir, what we recommended and at the end of the day, because the Minister did not give me an assurance, he said he would look into it, he would get back to us and he would endeavour to do this. It is on the *Hansard*, Sir. I voted against inclusive pricing because the Minister would not give me 100 per cent assurance. He intimated that he would look into it and come back to us. He has not done this and we waited, as a Panel, and he did nothing so we had to bring this late. But I will read what the recommendation in September on the inclusive prices said, which the Minister was full of praise of the Scrutiny Panel. He said: "For once we have been singing from the same hymn sheet. The Panel believes that the Jersey consumer has the right to know; (a) the total price they have paid for goods and (b) the G.S.T. payable on purchases. It is therefore recommended that prices are marked and displayed inclusive of price and if an inclusive G.S.T. system is introduced, if all businesses that which to register for G.S.T. should be required to provide receipts that indicate the amount of G.S.T. paid in the transaction to the nearest penny." That is not rocket science. Basically it is the retail scheme we are asking for. At the end of the receipt, if you have spent X amount in a shop we want the retailer to tell their customer how much they spent on their goods and how much, as the Minister

for Treasury and Resources put it, Sir, are they collecting to give to the Government? I do not think it is... the retailers have not contacted any of us. We asked the questions last year if they thought this would be possible and all they told us was: "We want certainty. You give us a scheme that we have to do. We will do it. We can do it. We can do it inclusive; we can do it exclusive." Now, exclusive would be exactly what we are asking because it would be the total of the goods added up, plus 3 per cent G.S.T. put on the bottom. It is basically what we are asking for to indicate what the G.S.T. is. As for, we have only given the retailers X amount, I may be mistaken, and I hope both the Minister for Treasury and Resources and the Minister for Economic Development... they have already spoken, but I am sure they could pass it on to somebody who has not, but can tell me that there is an understanding between the G.S.T. collection and retailers. I think it is 6 months. I think it is at least 6 months, that if there are small infractions, not like someone putting their G.S.T. in their back pocket, but small infractions, a bit of misunderstanding, not everything being carried out, there is no penalty. This has been agreed and everybody, Sir, is nodding at me, so this is not impossible to do. It is quite simple and I voted against because this was our recommendation, this is what the retailers told us that they could do. We did not have to go out and consult again and I believe it can be done and I believe in the interests of the consumer, and that is why I want this to be done and that is why I think everybody in the House agreed to inclusive pricing with the G.S.T. known to the consumer. We do not have it and now we are being accused of moving the goal post at the last minute. We are not moving and we are just bringing them back to where they were last September and I hope everybody will support this amendment. Thank you, Sir.

Senator T.A. Le Sueur:

May I just confirm, Sir, that we would not seek to prosecute people for innocent transgressions of the law, provided they corrected that error, but if they maintained the error and refused to change it then we would prosecute.

10.1.7 Senator L. Norman:

I am full of admiration for the Minister for Treasury and Resources and I fail to see how anyone could not be full of admiration for the Minister. He has been able to propose an unfair tax, a simple tax that is proving to be anything but simple, a tax which the public does not want, a tax which is not needed for at least a couple of years, despite the spending profligacy of the Council of Ministers, but not only has he been able to propose all of this he has been successful in a series of debates to convince the States to support him. I am convinced that no other Member of the States could have done this. I have the utmost admiration for him. So, having successfully introduced this tax, unpopular and unneeded, he now objects to the people who are paying it, the hard-pressed consumers, knowing just how much they are in fact paying in terms of pounds and pence. It seems to me a statement of the obvious, but surely any individual, any corporation must be entitled - have the right - to know how much tax they are paying. It is surely a basic human natural right. Now, what are the reasons that the Minister gives? What justification does he have for this secrecy? He says it will be difficult for the retailers. I doubt it. But even if it is, who in this great scheme of things is a little more important; the retailer, the unpaid tax collector if you like, or the consumer who is paying the tax? This is a consumer tax. This is about consumers. They have a right to know what they are paying in pounds and pence, but what is the other reason why the Minister wants the secrecy? He says in his report that by having this in Regulations would make Jersey unique. That is a criticism? Do you know, not all that long ago Jersey used to be proud of being unique, proud of being different, proud of being our own masters, proud of making our decisions which might be a little bit different from those elsewhere. Now we are expected to dance to other jurisdictions' tunes. Sir, Deputy Southern's proposition does not make the receipt mandatory, not compulsory. What it does do is say: "If you issue a receipt then you show on that receipt how much tax is being paid." That is right. That is proper. That is fair. Let us decide again, whose side we are on. I know which side I am on. I am on the side of the consumer, therefore I shall be supporting the proposition.

10.1.8 The Deputy of St. Martin:

Do you know what, I am glad Portsmouth got to the final because we are starting to get a bit of passion at long last from Senator Norman. That was quite a passionate speech, was it not? We have to wait another 69 years, I suppose, Sir. One thing we are finding out is that more information is coming out as we go along. It almost as if each day comes along and we are finding out a bit more information about who is going to pay and who is not going to pay and how that payment is going to come. I am a bit concerned about how some people are starting to charge people 3 per cent, even though I doubt whether that 3 per cent is going to go to the Treasury and I think that is a concern. I think one of the issues that we have is that at least if we do get a receipt we have some evidence to show that that 3 per cent has been paid and if indeed the retailer, or whoever is offering the service, is not passing on that 3 per cent to the Treasury there is some evidence to show that there is some malpractice going on. One of the questions that I wanted to ask of the proposer is knowing why there is this gap when S.R.16 was published, and when was it? Because I was hoping maybe Deputy Martin might have told us because she spoke a little bit about it but maybe we could know why. It seems a rather late proposition coming to the House and I would like to know really when it was proposed and indeed had it been put forward maybe 6 or 7 months ago, maybe we would have had a different response from the Treasury? It would seem to be one of the reasons we are not going to advance it, or one of the reasons for opposing it, is because it is now going to be too short a spell. In fact, had it been more time for a run-in, would the Treasury's attitude or position have changed? The other issue I have here is that it does say on page 7 that these Regulations will come into force on the seventh day after they are made. Well, I do accept there may well be a difficulty in getting something done by next week, or the week after, but I am just wondering if in fact we pass this together, whether the date of implementation could be delayed for some reason or other, because it does seem on one hand it would be rather tight to get it into the next week or so, but whether in actual fact if it is a good idea, whether we could have it in but be implemented at a later date. I wonder whether the proposer could just clarify that point. If we do approve it today, could the date in which it becomes implemented be delayed for some time to make a convenient time for people to get things into operation? Thank you, Sir.

10.1.9 Senator F.H. Walker:

We were treated to a great show of passion by Senator Norman in that speech just now and I congratulate him for the passion and the feeling that went into it. I whispered in his ear just now his wife would not recognise him. **[Laughter]** Sir, this is a well-meaning proposition and I agree with the words of the Minister for Treasury and Resources and the Minister for Economic Development in that respect and I think it is something we should aspire to, even though it is not done in other countries within direct taxation such as G.S.T., I do believe it is something we should aspire to and should work to, but it is quite impossible to deliver it within the next 7 days. Quite impossible to deliver it by 6th May, which is the date this House confirmed G.S.T. would come in just a few short weeks ago; absolutely impossible. We have heard, and it is an informed statement based on genuine consultation with retailers, unlike it has to be said, the Scrutiny Panel who have brought this proposition, we have heard that something like 50 per cent of retailers would not be able to comply. That is half the retailers in Jersey would not be able to comply with a law that we would have passed today. Now, very simply that would put retailers in breach of the law. Now, is that somewhere this House is prepared to go? I do not think so. It would put them in breach of the law. It would mean that if they were unable to comply they would be committing a criminal offence. Alternatively they would issue no receipt at all and may I remind Members that receipts are generally used for claiming refunds. That is the standard way for claiming a refund. So, either we are putting half the retailers in a position where they would be breaking the law, or they would not issue receipts and consumers would lose a considerable potential benefit as a result. So, Sir, well-meaning; seek to comply, yes; within the next 7 days, absolutely impossible and we have no choice other than to reject this proposition.

Deputy C.J. Scott Warren:

On a point of clarification, in some instances the House has passed legislation where there has been a grandfather clause, which has allowed a certain amount of time, be it 6 months or a year, for changes when there is a new situation being introduced and I fail to see... I want to ask, would this be possible, if it was agreed by this House, if this was passed today?

The Bailiff:

Deputy, the position is that the Regulations themselves specify when they are to come into force, which is on the seventh day after they are made, so that is the position. The Assembly cannot say something different.

10.1.10 Senator P.F. Routier:

I think it is probably a little bit more difficult than thinking that a little bit longer than 7 days might solve the issue that people would be able to do it in perhaps another month or so because, as we heard, even some of the big, big players like Woolworths - and I know we do not have Tesco's here - they do not operate in a system which would be suitable for this implementation. They are working in the retail scheme which does not suit what is being asked for today, but I agree that there certainly would be something we should aim for. One of the things which has not been highlighted in the debate so far is that of course those businesses which trade at a level of under £300,000 by law they cannot charge G.S.T. The law does not allow them to charge G.S.T. So, anybody who buys anything from one of those companies they will not be able to show anything on a receipt that there is a G.S.T. element, although the company has paid on the entry into the Island. So that there is a swathe of businesses out there who will not, by law, be able to charge G.S.T. I believe that is the way it is. They have to swallow that G.S.T. within their company. They make that decision. So, there is no G.S.T. element within the receipt. The Scrutiny Report which was published did make great play of the meetings that they had with the business community when they were coming forward with their report to have inclusive pricing and the comment that was made was that the businesses wanted certainty. They wanted certainty back when that report was brought together and they got the certainty when the States debated the legislation. They had that certainty and they have put everything in place ready now for 6th May. This very late change that is being suggested is not appropriate. Even the most efficient of businesses would not be able to achieve it in 7 days. It is not possible. I urge Members to reject the proposition.

Connétable K.P. Vibert of St. Ouen:

I think I, like a number of Members, would very much like to support this, but now have a real fear of whether we are trying to put in a law which will not be workable to a lot of people. Can I, Sir, through you, ask your opinion, if the proposer were to propose the Regulations one at a time and we were to accept the first, but reject the second, what would be the implication of that, Sir?

The Bailiff:

Well, then there would be nothing to say when it comes into force, which I would not have thought was a very satisfactory way of proceeding because the States would have passed something that just would not say when it comes into force.

Deputy G.P. Southern:

Nonetheless, which would be open to have something brought later to say enacted; bring it, do it.

The Bailiff:

No, because you would not be able to amend it. Do you want to speak in the meantime?

The Attorney General:

I believe the position is covered by the Interpretation (Jersey) Law 1954 where an enactment, wherever passed or made is expressed to come into operation forthwith or is silent as to the time at

which it is to come into operation, the enactment shall be construed as being expressed to come into operation on the day on which it was passed or made. So there were not even the 7 days.
[Laughter]

The Bailiff:

Thank you, Mr. Attorney. So that clarifies the position. Now does any other Member wish to speak. Yes, Deputy Lewis?

10.1.11 Deputy K.C. Lewis:

As a member of the Economic Affairs Scrutiny Panel, Sir, I will be supporting this. The Minister for Treasury and Resources said recently when I brought my amendment to exempt children's clothing from G.S.T. that it only costs £150 a year to clothe a child and we heard this morning that school uniforms cost upwards of £100, so my confidence is somewhat shaken. Even with the fuel-G.S.T. on fuel - we have 3 elements; the fuel, the impôts and the road tax. G.S.T. would be charged on all 3 elements which is triple taxation. So, I will be supporting this, Sir. The people of Jersey need to know exactly how much G.S.T. they are paying.

10.1.12 Deputy S.C. Ferguson:

I do a certain amount of bookkeeping for some small companies, as it happens they do not have sufficient turnover to pay G.S.T., however, I use an off-the-shelf computer program to send out invoices. It is part of the program and it lists... okay, it is a U.K. thing, but it lists V.A.T. separately on the invoice as a matter of course. If I buy on the internet then V.A.T. is shown separately; in today's day and age, I do not think it is that difficult. I would obviously like assurances from Deputy Southern that he has consulted with retailers. If there is a 6-month grace period then this will allow for those businesses having to get an I.T. expert from elsewhere. But having been in the retail business, I would have thought that certainly the smaller businesses with one or 2 tills, modern tills like that will have the facility to make this addition with just a simple few touches of the button, once you have worked out what the instruction book says. I had an electric till; it did take us a while to work out the instruction book. I think it was written in Japanese, translated into Swedish and then into English, so it lost a bit in the translation. I am sorry Senator Shenton is not in the House. He could have given us first hand an up to date view from the retailing section. I am surprised that most retailers are not going to add this to the till to make sure that the customer knows how much is going to the States out of what he has paid, or she has paid. Senator Ozouf made great play of 50 per cent of the businesses, does that include businesses not registering for G.S.T., I wonder? Apart from at the moment I am not totally decided, I would like assurances from Deputy Southern that he has consulted recently with particularly the larger retailers with multiple tills.

10.1.13 Deputy I.J. Gorst:

I will try not to give an election address although I must admit after listening to some other speeches I really would like to. I, like my fellow parishioner, have a great admiration for the Minister for Treasury and Resources, but I suspect for very different reasons. I believe that he has shown courage and that he has taken and made decisions which are in the long term interest of the Island. The amendment to the Law that we have in front of us today is, as many other speakers said, I believe, presented with the best intentions and I think also with the intentions of consumers at heart. Having said that, Sir, I will try not to... aware of the fact that Members really should speak simply and not reiterate what others have said, I feel that today is a time when you may forgive me for slightly treading over old ground. There are 2 reasons, I believe, why this amendment will not work and if we cast our minds back to the Minister's speech earlier in this debate, they were very clearly outlined and put forward and they revolve (1) around timing and (2) about the retail scheme itself. As the Minister said, it can be quite confusing for us as Members to understand what that entails. It is a scheme whereby retailers are enabled to add or take the final

daily total, add them up throughout the quarter at the end of the tax period and apply the tax fraction. Therefore, it is unlikely that they will have within their till system or within the software that we have heard so much about, the ability currently - I see the Deputy who proposed the amendment press his thumb as if operating a till in a shop - to do just that. Sir, sometimes I think it is easy for us in this House to assume that we understand every industry and that we think we understand how simple it is to amend computers and anything which involves software quite simply. That, I do not believe, is the case. Businesses will already by now have amended their software; in all likelihood they will be going through their re-pricing processes and as we have heard over 50 per cent of them say that they will not be in a position to have software available or receipts available or tills available to be able to carry out this amendment if we were to pass it today by the 6th May. So there are 2 issues, the retail scheme itself does not lend itself to enabling or requiring retailers to be able to issue a receipt that shows the G.S.T. and even if it did, it is most unlikely as I have already said, over 50 per cent of retailers have said that they would not be in a position within the timescales that we are requesting to do that. So we would be, if we support this amendment, supporting something that we know now with our eyes open is not going to be achievable by over 50 per cent of retailers and in fact is out of the whole purpose of the retail scheme in the first instance, which is to allow retailers to have a daily total and then apply the fraction at the end of the tax period. I think I have said enough, Sir, but I would ask Members not to support this amendment which I said at the start comes with the best of intentions for consumers. If Members really are so concerned to put consumers' interests first then perhaps this is something which should be looked at in the medium term, within 6 or 12 months. However, I would bear in mind that as the Minister said other jurisdictions which use the retail scheme still, after 20 years, make use of it and have not been able to phase it out perhaps as they thought they could in the early days. So that is something that we would have to bear in mind. But if Members really do want to go down this road of having G.S.T. upon invoices, every invoice which is given, I do not believe that this is the time, but maybe in future once the tax is bedded in, once retailers themselves have had experience of managing the tax and collecting it and obviously carrying it, forwarding it on to the taxman, then that will be the time to look at this sort of suggestion, but not today, Sir, we would be asking retailers to do something that we know they cannot do, thank you.

10.1.14 Deputy S. Power:

I am frankly astounded to hear the Chief Minister, the Minister for Treasury and Resources, the Minister for Economic Development and even Deputy Gorst oppose this amendment today. Like many Islanders we visit other jurisdictions because we live on a small island and when we visit these jurisdictions we are very familiar with buying in other jurisdictions, in other retail shops, supermarkets wherever, where the tax on what you purchase in these jurisdictions is itemised. The French do it quite well. There are 2 or 3 different rates of T.V.A. (Taxe sur la Valeur Ajoutée) in the French supermarket. They itemise petrol; they itemise cigarettes. They do it in the Irish Republic; I have seen it in South Africa. To me this is a simple matter of dealing with the point of sale and adding and itemising the T.V.A., the V.A.T., the G.S.T. whatever it is, and it is a simple software process that is probably already available to the vast majority of Jersey retailers. I fail to understand why this is a big issue. I accept what Deputy Gorst says, that perhaps there should be a time lead-in into this, but I think if you were to survey the majority of large Jersey retailers they would say they have already factored this in with the software they have already bought. I really think we are making a mountain out of a molehill and I am certainly pleased to support this amendment.

10.1.15 Deputy G.W.J. de Faye:

While it is a huge honour and a privilege to stand among all these consumer crusaders, I do get the feeling that we are beginning to lose our focus on what we originally set out to do as States Assembly with G.S.T. It was meant to be "a light touch" tax, a small amount, 3 per cent. Quite why every consumer in the Island needs a regular reminder on every single receipt that they

receive, that it is 3 per cent, is frankly beyond me. I would be amazed if there is anyone who goes out shopping who does not know that G.S.T. is going to come in at 3 per cent. Light touch was the original intention, but drip by drip like some ghastly Chinese water torture the States Assembly has managed to drive one exemption after another through and fair enough, decisions have been made on that front. It is no longer as simple as it could have been and it seems to me pretty clear, certainly from the local media, that many people and especially retailers are still struggling to some extent to get to grips with this tax, with its ramifications on their business, and with getting ready to go, effectively, on day one of the introduction of G.S.T. But here we are debating, incredibly, at the very last minute yet another burden to place upon the already, in some cases, confused retailer who is doing his and her best to get this tax introduced as smoothly as possible, but oh, no, our great friends in the States, always one to make the life of a retailer as smooth as possible, want to slap on yet another imposition, this time a recording of the amount of a tax quite frankly we all know. We have had references to how marvellous it is in all these other jurisdictions and indeed I was hugely entertained by Senator Norman who reminded us all about Jersey's uniqueness. We are proud of our uniqueness; proud of our independence; proud that we do things differently. Indeed, we even named a castle Mount Pride, if you know your French translations. Where has all the pride gone? I just need to remind the Senator that we have discovered that pride is a sin so we are back pedalling now fairly furiously. In reality, does it matter what is done elsewhere? I have to say nothing really depresses more when I take a holiday outside the jurisdiction than to receive a receipt and find out how much tax I am paying to the country I happen to be in. It is a thoroughly depressing and dispiriting experience that I would rather not know about. I would just rather pay the bill perhaps in the naïve knowledge that all the money was going to the restrauteur or retailer. Why? Why this insistence on every fine detail being produced in the receipt? I have to say while everyone here is overburdened with the best of intentions, I do get a little hint of a suspicion there is a late sabotage technique being applied here and not just a little bit of electioneering well before the election event comes around from all our, as I say, consumer crusaders. I do not want people's holidays ruined when they come to visit my Island. I want them to just get a receipt and not discover to their unpleasant horror that they have been skimmed 3 per cent by the greedy Government of Jersey, although 3 per cent probably can hardly be described as greed. I certainly do not believe that our worthy citizens, burdened already as they are, need to be constantly reminded every time they buy something that they too are having to pay up 3 per cent. Is it really so important that we need to effectively de-rail this process at the very last minute and do we really want to add yet a further complication for the poor retailers who we know full well are working extremely hard right now to try and prepare themselves for when G.S.T. comes in, in a matter of days? Do we really at this stage want to throw another spanner into those works? I suggest that would be folly in the extreme, deeply unpopular with a very substantial section of the community most of whom probably vote for you, I might remind you, and I think frankly that if this is to be looked at in detail should have had much more consultation than it appears to have had. If we are to do it let us do it after G.S.T., as it stands, has had a chance to settle in, bed-down, have everyone get used to it and when we can review, say in a year's time, then it might be appropriate to introduce this measure. I simply say to Members now is not the time.

Deputy C.J. Scott Warren:

Could I ask the Attorney General for a point of clarification regarding separate marking of G.S.T. when it is people coming from the U.K. or anywhere to Jersey because with V.A.T. in England if a person purchases a certain amount you have a separate amount of the V.A.T. and you can claim it back when you get back to Jersey because we are V.A.T. free? What is the situation if people went to buy purchases where there was no separate marking of the G.S.T? Would they be able or not, if there was separate marking, to claim it back when they went back to, say, England or Europe or wherever?

The Attorney General:

Can I have a moment?

10.1.16 Connétable P.F.M. Hanning of St. Saviour:

Just a short point. We are talking about what is happening, whether it feasible to do this now or not. I had a look in my wallet. I had 3 receipts, 2 of them are showing V.A.T. zero. The facilities are there now for most of the retailers.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon Deputy Southern to reply.

10.1.17 Deputy G.P. Southern:

It is interesting always to hear Deputy de Faye when he stands up to speak. I think he gave away rather too much of his motivations there when he talked largely in self interest about how he does not want holidaymakers to know how much they are being ripped-off nor consumers to know how much tax they are paying and he suggested that this was an arcane way of de-railing the whole G.S.T. principle. Would that I was so devious. Perhaps Deputy de Faye is so devious but certainly not me. I will try and keep it short. Here we go with the usual fear-mongering that is spread: "We cannot possibly do this. It will ruin the whole thing." This is simply not true. The fact about the retail scheme is about accounting with invoices for the amount of G.S.T. to the tax collector. It is nothing to do with this proposition which is about the relationship between the retailer and the consumer. That is the fact. This has been recommended since 15th September last year. It was widely consulted. As a result of this, this came out in September last year. Did the G.S.T. Director get in touch with us to say: "Cannot do it"? He did not. Did the Director of Consumer Protection get in touch with us to say you cannot do this? Did the Co-op get in touch to say "impossible"? No. Did the Chamber of Commerce get in touch to say "impossible"? No. No communication and yet here we are. Talk about late notice, I received these comments on Thursday night. Did the Treasury and Resources Minister get in touch with me in the last 6 weeks since this has been lodged to say: "Actually, we think you made a mistake"? No. I got this 4 days ago. Why has this been brought late? Why, because we have been requesting, asking, begging the Minister for Economic Development to act upon our recommendation. He has um'd and ah'd and said: "Yes, in principle I am in favour of it but I do not want to do it now; in good time." We have been working on him since our report. The end result is that, yes, this appears late but our recommendation that there should be a grace period put in place so that retailers can respond is still apparently there. We are not talking about prosecutions tomorrow or in a week's time. We are talking about 6 months grace to get your act together and to deliver this. The reality is, as the Constable of St. Saviour clearly said in his telling contribution at the very end, very brief, most of the retailers in this Island could respond to this as of tomorrow. They already have the machinery set up there. Who cannot respond? By and large I believe those to whom this does not apply, those with a turnover of less than £300,000. It is possible to do this, it has a period of grace there. Let us get on and do it and do it properly to protect our consumers. I maintain the proposition and call for the appel.

The Attorney General:

I apologise in advance to Members if I have it wrong - the Minister for Treasury and Resources will no doubt have a better handle on it and be able to correct me - but my understanding of the legislation which I have looked at is that there is no ability to recover G.S.T. on leaving the Island, taking the goods with you. So, that being so, the position is not the same as buying goods in the United Kingdom and claiming the V.A.T. back when you come back here.

Senator J.L. Perchard:

Could I ask a point of clarification, Sir. If we support the amendment to the Regulations today will they come into force on 6th May, unlike the information just given by Deputy Southern when he spoke of 6 months?

Deputy G.P. Southern:

Six months grace period without prosecution. We are not going to be chasing people.

Senator J.L. Perchard:

Can I ask for clarification on that because I cannot find any reference to a 6-month period without prosecution?

The Attorney General:

If I may say to Members, whether there is any grace period is indeed a matter for the Attorney General.

Senator W. Kinnard:

Can I just say, as the Minister for Home Affairs who has to deal with a lot of law enforcement, to make this kind of decision under these circumstances just makes the law an ass and it is just not responsible. Please excuse my language.

The Greffier of the States (in the Chair):

The debate is finished. The principles are proposed. The appel is called for. I ask Members to be in their designated seats and the Greffier will open the voting for and against the principles to the regulations.

POUR: 21		CONTRE: 23		ABSTAIN: 0
Senator L. Norman		Senator F.H. Walker		
Senator B.E. Shenton		Senator W. Kinnard		
Connétable of St. Mary		Senator T.A. Le Sueur		
Connétable of St. Brelade		Senator P.F. Routier		
Connétable of St. Martin		Senator M.E. Vibert		
Connétable of St. John		Senator T.J. Le Main		
Connétable of St. Saviour		Senator J.L. Perchard		
Deputy R.C. Duhamel (S)		Connétable of St. Ouen		
Deputy of St. Martin		Connétable of St. Clement		
Deputy G.C.L. Baudains (C)		Connétable of St. Helier		
Deputy C.J. Scott Warren (S)		Connétable of Trinity		
Deputy R.G. Le Hérisssier (S)		Connétable of St. Lawrence		
Deputy J.A. Martin (H)		Connétable of Grouville		
Deputy G.P. Southern (H)		Deputy J.B. Fox (H)		
Deputy S.C. Ferguson (B)		Deputy P.J.D. Ryan (H)		
Deputy of St. Ouen		Deputy of Grouville		
Deputy of St. Peter		Deputy G.W.J. de Faye (H)		
Deputy J.A. Hilton (H)		Deputy D.W. Mezbourian (L)		
Deputy S.S.P.A. Power (B)		Deputy of Trinity		
Deputy S. Pitman (H)		Deputy A.J.D. Maclean (H)		
Deputy K.C. Lewis (S)		Deputy of St. John		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

11. Draft Centeniers (Terms of Office) (Amendment) (Jersey) Law 200- (P.44/2008)**The Greffier of the States (in the Chair):**

The Assembly, having deferred the Bovine Semen Regulations, now comes to the Draft Centeniers (Terms of Office) (Amendment) (Jersey) Law 200-. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Centeniers (Terms of Office) (Amendment) (Jersey) Law. A Law to amend the Centeniers (Terms of Office) (Jersey) Law 2007. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

11.1 The Connétable of St. Ouen (Chairman, Comité des Connétables):

The need for this very simple amendment came about following the first round of the synchronised election dates for Centeniers which the 2007 Law provides for. It was realised at that time that a number of Parishes could be without the services of a Centenier during the time following the election and the swearing-in date. This particular amendment addresses that issue whereby an elected Centenier will continue to perform the functions of a Centenier until the date when he or she is duly sworn in by the Royal Court. I make the proposition.

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? I put the principles. Those Members in favour of adopting them kindly show? Any against? The principles are adopted. Deputy Ryan, your Panel does not wish to ...?

Deputy P.J.D. Ryan of St. Helier (Chairman, Corporate Services Scrutiny Panel):

No, thanks.

The Greffier of the States (in the Chair):

Chairman, do you propose the Articles *en bloc*?

The Connétable of St. Ouen:

Yes, Sir.

The Greffier of the States (in the Chair):

Are they seconded? **[Seconded]** Does anyone wish to speak on the Articles? I put the Articles. Those Members in favour of adopting them kindly show. Any against? The Articles are adopted. Do you propose the Bill in Third Reading, Chairman?

The Connétable of St. Ouen:

Yes, Sir.

The Greffier of the States (in the Chair):

Seconded? **[Seconded]** Does anyone wish to speak? Those Members in favour of adopting the draft Bill in Third Reading kindly show. Any against? The draft Law is adopted.

12. Working Party to Review Appropriateness of Departmental Structure (P.49/2008)

The Greffier of the States (in the Chair):

The Minister for Economic Development has notified me that he has to attend an urgent medical appointment and has asked if the next matter could be put to the bottom of the list. I understand he will return. Deputy Baudains, in relation to P.49.

12.1 Deputy G.C.L. Baudains:

I think the list may get shorter still. Some concern has been expressed that my proposition may duplicate in some places the work that is nearly completed by the Auditor General and, while I am fairly confident that it does not, on the other hand I do not wish to set up a working party that does not have a great deal of work to do. The Chief Minister has approached me, which is always a dangerous situation, **[Laughter]** and offered sight of the Auditor General's report and also agreed to make himself available during the next couple of weeks for the purpose of analysing to see what

overlap, if any, occurs. Accordingly, I would ask that this proposition be deferred for 2 weeks to enable that analysis to take place.

The Greffier of the States (in the Chair):

Very well, Deputy, that is your prerogative to defer the debate and that debate will be deferred from today.

13. Chief Minister election: advance notice of intention to stand (P.52/2008)

The Greffier of the States (in the Chair):

We therefore come to P.52, Chief Minister election: advance notice of intention to stand. I wonder if Members would be content to take the proposition as read. It is quite a lengthy proposition. Very well, we take the proposition as read and I call on Deputy Pitman to make the proposition.

13.1 Deputy S. Pitman:

Members may ask why I am bringing this proposition to the House again. I am of the firm belief that in the absence of a party political system the people of Jersey are in desperate need of a more democratic process to elect their Chief Minister, as opposed to the one we have now which does not allow the public any say as to who leads their Island. This is why I bring the proposition again but this time as an in-principle proposition. Sir, as I have set out in the accompanying brief reports, there are a number of issues that arose after the 2005 elections. The issue that surely overrode all others was the widespread voter apathy resulting in such disappointing election turnouts. Whatever the political persuasion of individual Members, I do not believe any of us in the House would disagree that a major cause of this among the public was a real sense of being disengaged from the political process. People genuinely feel that their Government does not listen. I will not go into the details of the proposition because this is an in-principle proposition and we have already discussed the details within it. I maintain the proposition and ask if the House can vote separately on (a) and (b) and then (c).

The Bailiff:

Is the proposition seconded? [**Seconded**] Does anyone wish to speak on the proposition?

13.1.1 Deputy C.J. Scott Warren:

I think it is good for us to have this chance to debate this proposition again but my concern is that what on the face of it look to be very, very worthy proposals, when you look beneath that I believe there are dangers. Firstly, any person who decides to stand for election or re-election to the States is entitled to, and in fact should, inform in a manifesto the public of his or her specific interests and that should include past work and achievements and, if they have already been in political office, those achievements, and areas of political activity which the person aspires to. Certainly I would be in favour of that person being candid. When they give their manifesto and when they go to hustings meetings, they certainly should be as open and honest as possible. This is where I part company with the proposition regarding the mandatory putting of whether you wish to become a Chief Minister on the paper. I believe the person concerned who wants to go for re-election - and I say re-election because it is unlikely that anyone standing for the first time would want to be Chief Minister but I suppose it is a possibility - my feeling is that person may not be certain at the time of the election about such an important decision and I feel that it could restrict the number of candidates coming forward nearer the time of an election for Chief Minister. Certainly, if people do aspire to that there is no reason why, if they can, they should not inform the public but it should not be mandatory. What appears to be a very good proposal in one way may mean that we have a lesser choice of numbers of candidates standing for Chief Minister in future. The other issue is the open ballot for Chief Minister which again on the surface most of would think sounds a very good proposal but when you look further into this I also think this could be detrimental to achieving the

best person for the job and so thereby detrimental to the public. The reason I think that is because people tend to form alliances and friendships and they could be pressurised, if they are giving an open vote, into voting for a colleague to whom they have said: “Yes, I will support you” when in fact, were they allowed a secret ballot for candidate X, Y or Z, instead of the close colleague X who they might have said they would support, they might vote for Y or Z. The aim must be to achieve the best person for this important job for the Island. I think right throughout we have the situation where the aim of States Members has to be at hustings, on the manifesto, to be as open as possible but we have to make sure that we do not lessen the number of people coming forward to be Chief Minister, to put their names forward, and that we do not end up with not getting the best person when we come to voting for that position. As I say, I welcome this debate again. I do think there is a problem in the Ministerial system in the connection between who we elect and the policies. I am all for open discussion and where a person can give their past they should give their past areas of work and interests and their future areas of where they would like to be involved. I have nothing against that. I just believe it should not be mandatory and I believe that the secret ballot certainly should be preserved.

Deputy R.G. Le Hérisier:

On a point of clarification, the speaker said that persons should try to be as open and honest as possible. Is she suggesting there are occasions when it is permissible to be dishonest or economic with the truth?

Deputy C.J. Scott Warren:

I am not suggesting that. I am suggesting that in a manifesto and on the hustings you give your past achievements and future aspirations. What I am saying is if it is mandatory, the mandatory issue is the one that I think may restrict our selection. It is the fact of it being mandatory to have to say: “I want to be Chief Minister.” You may not know if you want to be Chief Minister when you come to put your name forward for an election.

13.1.2 Deputy J.B. Fox:

First of all I should declare that I am not proposing to stand for the position of Chief Minister so let us get that bit out of the way. [**Approbation**] On the other hand, the other thing that ever seems to be passing our proposals here is reform in piecemeal. We seem to be going through this process no end of times. I do not like reforms in piecemeal. I like to see them all joined-up together and being discussed at one time in one place so that we can put some coherence into them. Thank you, Deputy, for bringing it forward but can you bring it back when we get it all not piecemeal then I might vote for it. I am not going to vote for it now piecemeal.

13.1.3 Deputy G.P. Southern:

We have got a first comment that says it is piecemeal and it is piecemeal. It is a small step forward. I believe it is, though, a step forward and I want to explain why. The first thing to point out is that there was - and no one in this Chamber could have missed it - an enormous sense of frustration in 2005 when the public did not get a vote into who was going to be their Chief Minister. This is undoubtedly true. An enormous sense of frustration that it was somebody coming halfway through their tenure who became Chief Minister without a recent vote. When we examine why people should or do not turn out to vote, why we have got such appallingly low turnout rates, we are drawn inevitably to the fact that there is very little connection between the way people vote and what gets delivered, either in policy at the beginning of a term or by the end of a term what has been delivered. There is very little connection between any person’s individual vote and delivery of any policy and that is the ultimate frustration. So, in the absence of party politics where there is a chance at least of a connection: “I vote for this party. If enough people do it then the likelihood is I know the direction of the policy that we are going to get”, in that absence what hope is there to revive interest in the political process in Jersey? I would suggest it is very little indeed. If we talk

about piecemeal change, we turn to Clothier and what have we got? Have we got a single type of Member in the States? No, we have not. We have refused that one. We have tinkered with it and everybody has come up with their own Heinz 57 varieties on it but have we changed a bit? No, not one jot. Have we got a general election and an agreed term of office, consistent term of office, which enables a general election, which enables the electorate to have the chance, should they so wish, to fully endorse a government in its line or otherwise to throw them out? No, we have not. Clothier recommendations. So, no general election, no parties, no single Member. What have we done? No wonder people out there do not turn out. Another thing: have we got clear and identifiable and committed to manifestos? We see some, usually cast in vague terms. The model for us all is Senator Cohen who managed to fit, I believe it was, 54 promises in his manifesto, about 3 of them he has already attempted to deliver. I do not know where the other 51 are going to come but I wait to see them with bated breath. But he does provide a model; 54 promises, that is what we are talking about. Now, the one thing that this proposition will do if we say anyone considering standing for Chief Minister must declare before they stand, I think the next step would be that if they do, by God they had better produce a manifesto that clearly lays out why they are standing and what they are about should they get the chance to stand and be elected to Chief Minister and therefore make some sort of connection between any individual's vote and the possibility that: "Right, we will make this guy top of the poll because look at those policies and those are the policies we want." That is the vital connection that we do not have in Jersey, a connection between a vote and policy. The one thing that this would do is to make anyone considering to stand as Chief Minister ... and that is really the only position worthwhile in terms of delivering a policy: "I will select a group of Ministers, [Laughter] I will attempt to deliver these policies through my Ministers." That is the promise you can make as Chief Minister. Senator Perchard I am sure will want to contribute to this debate and will have his chance in a minute. If he would let me finish I would be very grateful. Thank you. If you are standing for Chief Minister at least you can make those policy statements clear and if you are voted in and should you become Chief Minister then at least you make that connection between the possibility of delivering policy and any individual vote. So I think this is indeed a piecemeal approach. It is piecemeal necessarily because we have not managed to make any change at all meaningful in terms of connecting the electorate with policy and deliberate policy in this Chamber and we must if we are really going to change the low turnout that we are meeting. Finally, addressing the secret ballot and the non-secret ballot: let us stand up and be counted. I think this is the one thing that the electorate do require of us, that we make our minds up and we stand up and be counted in this Chamber. I have had a longstanding argument with my colleague from the west about abstaining and I always say they did not vote you into the Chamber to abstain ever. Nobody said: "I want you to go into the Chamber and abstain." They wanted you to come into the Chamber and vote with your conscience the way you saw fit and to stand up and be counted on that. They did not ask you to come in and vote in secret because they do not know what they are getting, do they, for their vote and for their commitment to you? What they do want is for you to stand up and be counted and show which way you have made your mind up. So a secret ballot is a thing not of beauty. We must free-up the secret ballots and if it means that some people are disappointed in their friendships then so be it. Who is in politics to make friends? I ask you. That is a strange concept. [Laughter] Influencing people, yes, but making friends, possibly not. So the secret ballot is a thing to be abhorred. Let us stand up and be counted and let us have open voting, certainly for the important position of Chief Minister. So, on those 2 grounds alone I will be supporting this proposition.

13.1.4 Deputy G.W.J. de Faye:

It is always a pleasure to follow Deputy, apparently "no mates", Southern [Laughter] and I sympathise. I have always admired his long pilgrimage to the Island of Jersey from, I believe, his home town of Manchester to bring us tidings of manifestos, political parties, how marvellous they are, one in particular at the moment I gather, and it has always rather puzzled me as to why he chose in reality such a reticence to return to the political nirvana from whence he came. That being

said, he has taken us round the houses and I am afraid rather failed to focus on the proposition before us. I should say that when I recall first standing for the States - and I apologise to the Privileges and Procedures Committee who may have adjusted the law since - one of the novelties of being elected and having a nomination meeting was to discover that in fact the only person who did not need to be at a nomination meeting was the person who was being nominated. I am sure most Members will recall perhaps being a little puzzled when the nomination meeting happened and there they were trying to look keen and enthusiastic but the only person making a speech was the person nominating them. I believe the seconder is allowed to have a go but it is generally frowned upon these days for taking up too much time, certainly in St. Helier. So we appear to kick off with something of an anomaly. Candidates are not required by law to be at the nomination meeting but they are now being asked to be there should they wish to be nominated for the role of Chief Minister. I should take this opportunity, in case I do not happen to turn up to my next nomination meeting, to say that, in the absence of any other suitable candidate and should the States Assembly be struck by fire, explosion or other similar disasters, I would, of course, declare myself to be a candidate for Chief Minister. I would feel it would be my public duty to take up the role, not that I would wish to have it. **[Laughter]** I think there seems to be some extraordinary misunderstanding, not only among the public of the Island but indeed among some of our own Members, about the precise role of the Chief Minister who appears to have been accorded some sort of mystical powers, not to say presidential status, and that somehow the Chief Minister plays this critical role in the entire Government of Jersey. The reality could be nothing further from the truth. The Chief Minister, as we all know, is an enfeebled figure with not nearly as many powers. I do not refer personally to the current Chief Minister, merely to the role of the Chief Minister. It is an enfeebled position with not nearly as many cabinet-style powers as some members think perhaps the Chief Minister should have. So why this extraordinary concern and why this determination that the Chief Minister should somehow declare his hand at a very early stage in proceedings? Talking of determination, I must commend Deputy Pitman for her determination. I have been wondering what she has been up to over the last couple of years and she has determinedly brought back this proposition again, cleverly reworded. So we go around again and I will be saying some of the same things that I have probably said previously, for which I apologise. It is interesting, though, to note that a lot of the provisions contained within this proposition are the standby position of if all else fails any States Member can be Chief Minister, which I think, I have to say, rather undermines the original purpose of the proposition. Be that as it may, I think we are seriously over-selling the importance of the powers and quasi-presidential role of the Chief Minister. No question, of course, the Chief Minister has a leadership role but it rather is, I can assure Members who may not have attended any Council of Ministers meeting, like a shepherd trying to round up a bunch of 9 unruly sheep, who do not necessarily behave like sheep by any stretch of the imagination, rather than someone leading a dedicated and loyal force of followers. I think in many respects, whether or not we declare ourselves as being interested in the Chief Minister's job or not interested, what does concern me about how this would appear on the ballot paper I think is a showstopper for me because we would end up, potentially, with ballot papers with some of the candidates being distinguished by having printed next to them "candidate for Chief Minister". I think it goes without saying that that is likely to sway a voter when presented with that ballot paper because a voter, I would suggest to Members, is going to think: "Oh, now these people clearly have a certain level of charisma and feel they have a certain calibre and therefore they are probably more worthy than the people who do not think they are going to be of the calibre for Chief Minister and are not prepared to put themselves forward." I believe that this intention to have it written on the ballot paper is in fact a fatal flaw in this entire proposition because it would, of its very nature, sway the ballot paper and voting procedure. But as we all know, the elections are concluded, States Members are elected, and we will then be faced with, first meeting of the new States, to elect a Chief Minister. Again, this is something that I think perhaps we need to remind the public about. The public, when they go to the elections, are not electing the Chief Minister, they are electing representatives who on their behalf will elect the Chief Minister. I do not believe it is right that Members of the States

should be elected on some sort of mandate that: “I am only voting for you on the basis that you will plump for a particular person for Chief Minister.” Deputy Southern spoke of the feelings he got from the last election about people feeling disenfranchised in this particular respect. I have to say I thought it was a very unhelpful pressure in the entire election campaign of the last round that we had where frankly matters were diverted on to a single - to be honest entirely irrelevant - subject of who was going to be the Chief Minister and important policy issues were almost entirely overlooked as a consequence. I found this obsessional concept with who is this person going to be a really deeply unhelpful aspect of personality politics that, frankly, we could do without. I see nothing in this proposition; it would, in fact, encourage that type of personality politics even more than we have it now. In particular, if there is anything at all that I feel deeply and strongly about it is the importance of having a secret ballot in this Chamber when we have to elect the Chief Minister. I believe that is an absolutely vital component. I will not go into the broader issues of the secret ballot. Anyone who has followed the news about what goes on in Zimbabwe with policemen standing behind you as you head into a ballot box will certainly realise that there is a real importance of keeping the way you vote private and personal to yourself. It is one thing if a Zimbabwean policeman knows which way you voted but realistically, and fortunately not in nearly a threatening way, in this Assembly it will not be helpful if we all know whether we supported one particular politician or another for the role of Chief Minister because at very minimum we have to work with each other and with the Chief Minister for 3 years. It may be a failing of human nature, if I was Chief Minister the first set of notes I would have in front of me were who voted for me and who voted against. I am sorry, you may call that a human failing and I admit it but I would want to know who those people are. I would not necessarily say that vendettas would be launched [Members: Oh!] but I think that Members, when I pose things in such an extreme way, can see clearly the dangers of having everybody know how everybody voted on a really sensitive subject like who should we put in charge of us. So, I am sorry but I think in virtually every respect I find myself in disagreement with this proposition. I think it has some serious flaws in it which could have no end of unintended consequences and regrettably I urge Members to vote it out.

13.1.5 Senator B.E. Shenton:

Just a brief statement. I was interested in Deputy de Faye’s comment regarding Zimbabwe and the election for Chief Minister but perhaps we should all bear in mind that, whereas the election for Ministers and the Chief Minister is a secret ballot, we do dismiss Ministers with an open ballot. I think there is a lack of consistency there which should perhaps be addressed by Privileges and Procedures in due course.

The Bailiff:

I call upon Deputy Pitman to reply.

13.1.6 Deputy S. Pitman:

I would like to thank those Members who have commented on this proposition. May I start with Deputy Scott Warren who said that candidates should be open and honest about standing for election. I am sorry but I do not have that faith. A good example of this was in the last elections when candidates said they would vote against G.S.T. and once they got in they voted for it. Also, Deputy Scott Warren stressed that we are voting for an important position and we are. However, I think also that Members do not give the general public enough credibility to vote for a Chief Minister. Also, to Deputy Scott Warren, this proposition does stipulate that candidates can change their mind once they are elected. May I also remind Members that this is an in principle proposition for the P.P.C. (Privileges and Procedures Committee) to consider. Deputy Fox: the reason that Members should vote against this because it is piecemeal. I am sorry but this is not a good enough reason. The principle behind this proposition is about bringing more democracy within our government, connecting to the people more and thus more people out voting. I believe this is the essence of Deputy Southern’s message. Deputy de Faye said that he wondered what I

had been up to in the last 2 years and I will tell him. I have been spending time helping many of his constituents and I can give him a long list if he wants it, one case being 16 elderly residents of whom I informed him but I got no response from him. Sir, I maintain the proposition and call for the appel.

The Bailiff:

Deputy, you mentioned in your proposal speech that you perhaps wanted to take the paragraphs separately. It seems to me that (a) could stand alone but (b) and (c) must go together. Do you wish to take separate votes or do you wish it to be voted on ...?

Deputy S. Pitman:

Separate votes please, Sir.

The Bailiff:

Very well. I believe we can vote on paragraph (a) separately which would simply be a declaration with no subsequent consequence. So paragraph (a) is proposed and the Greffier will open the voting on paragraph (a).

POUR: 6		CONTRE: 37		ABSTAIN: 0
Deputy P.N. Troy (B)		Senator L. Norman		
Deputy J.A. Martin (H)		Senator F.H. Walker		
Deputy G.P. Southern (H)		Senator T.A. Le Sueur		
Deputy P.J.D. Ryan (H)		Senator P.F. Routier		
Deputy S. Pitman (H)		Senator M.E. Vibert		
Deputy I.J. Gorst (C)		Senator P.F.C. Ozouf		
		Senator B.E. Shenton		
		Senator F.E. Cohen		
		Senator J.L. Perchard		
		Connétable of St. Mary		
		Connétable of St. Clement		
		Connétable of St. Helier		
		Connétable of Trinity		
		Connétable of St. Lawrence		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. John		
		Connétable of St. Saviour		
		Deputy R.C. Duhamel (S)		
		Deputy of St. Martin		
		Deputy G.C.L. Baudains (C)		
		Deputy C.J. Scott Warren (S)		
		Deputy R.G. Le Hérissier (S)		
		Deputy J.B. Fox (H)		
		Deputy S.C. Ferguson (B)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy G.W.J. de Faye (H)		
		Deputy D.W. Mezbourian (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy A.J.D. Maclean (H)		
		Deputy K.C. Lewis (S)		

		Deputy of St. John		
		Deputy of St. Mary		

The Bailiff:

Members will now vote on paragraphs (b) and (c). The system has been reset. The Greffier will open the voting.

POUR: 3		CONTRE: 40		ABSTAIN: 0
Deputy J.A. Martin (H)		Senator L. Norman		
Deputy G.P. Southern (H)		Senator F.H. Walker		
Deputy S. Pitman (H)		Senator T.A. Le Sueur		
		Senator P.F. Routier		
		Senator M.E. Vibert		
		Senator P.F.C. Ozouf		
		Senator B.E. Shenton		
		Senator F.E. Cohen		
		Senator J.L. Perchard		
		Connétable of St. Mary		
		Connétable of St. Clement		
		Connétable of St. Helier		
		Connétable of Trinity		
		Connétable of St. Lawrence		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. John		
		Connétable of St. Saviour		
		Deputy R.C. Duhamel (S)		
		Deputy of St. Martin		
		Deputy G.C.L. Baudains (C)		
		Deputy P.N. Troy (B)		
		Deputy C.J. Scott Warren (S)		
		Deputy R.G. Le Hérisier (S)		
		Deputy J.B. Fox (H)		
		Deputy S.C. Ferguson (B)		
		Deputy of St. Ouen		
		Deputy P.J.D. Ryan (H)		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy G.W.J. de Faye (H)		
		Deputy D.W. Mezbourian (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy A.J.D. Maclean (H)		
		Deputy K.C. Lewis (S)		
		Deputy of St. John		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

The Bailiff:

Deputy, clearly paragraph (d) falls away with (a) (b) and (c) being rejected. The Assembly can nevertheless vote on paragraph (e) which is that the election of the Chief Minister should be by

open ballot and not by a secret ballot. The voting system is reset. I will ask the Greffier to open the voting on paragraph (e).

POUR: 11		CONTRE: 32		ABSTAIN: 0
Senator B.E. Shenton		Senator L. Norman		
Senator F.E. Cohen		Senator F.H. Walker		
Connétable of St. Helier		Senator T.A. Le Sueur		
Deputy of St. Martin		Senator P.F. Routier		
Deputy R.G. Le Hérisier (S)		Senator M.E. Vibert		
Deputy J.A. Martin (H)		Senator P.F.C. Ozouf		
Deputy G.P. Southern (H)		Senator J.L. Perchard		
Deputy S.C. Ferguson (B)		Connétable of St. Mary		
Deputy P.J.D. Ryan (H)		Connétable of St. Clement		
Deputy S. Pitman (H)		Connétable of Trinity		
Deputy I.J. Gorst (C)		Connétable of St. Lawrence		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. John		
		Connétable of St. Saviour		
		Deputy R.C. Duhamel (S)		
		Deputy G.C.L. Baudains (C)		
		Deputy P.N. Troy (B)		
		Deputy C.J. Scott Warren (S)		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy G.W.J. de Faye (H)		
		Deputy D.W. Mezbourian (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy A.J.D. Maclean (H)		
		Deputy K.C. Lewis (S)		
		Deputy of St. John		
		Deputy of St. Mary		

The Bailiff:

Before we move to the next item could I perhaps draw Members' attention to the presence in the Assembly, I believe for the first time, of the Solicitor General. I am sure Members will welcome him most warmly. **[Approbation]** I am sure Members will have noted the Solicitor General arrived in the Assembly very briefly before the adjournment. **[Laughter]**

14. Health and Safety Appeal Tribunal: appointment of members (P.56/2008)

The Bailiff:

The Assembly now comes to the next item. This is an item where the Minister technically needs to ask for leave for it to be taken today, the Health and Safety Tribunal. Do I take it Members are content to take this item today? Very well, I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of the opinion to appoint the under-mentioned as members of the Health and Safety Appeal Tribunal in pursuance of Article 17 of the Health and Safety at Work (Jersey) Law 1989 and the Health and Safety at Work (Appeal Tribunal) (Jersey) Regulations 1989, for a period of 3 years, commencing 1st May 2008: Advocate Charles Malcolm Belford Thacker, M.A., Chairman; Mr. Philip William Syvret, LL.B.(Lond), Solicitor, Deputy Chairman; Dr. Gwyn Llewelin, M.B., B.S., M.R.C.S., L.R.C.P., M.R.C.G.P.

14.1 Senator P.F. Routier (The Minister for Social Security):

I will not try and repeat all those initials. I will try and not test the Solicitor General as well. I would just like to propose the people who are in the proposition. There are 4 people who make up the tribunal. Other than the 3 which I am asking to re-appoint, there is a fourth person, Mr. Tim Darwin, whose period of office does not expire until 31st March 2009. The Appointments Commission have looked at this and agreed that it is appropriate that these people be re-appointed because they have not been in office for an extended length of period. So I propose the names and thank them for going forward voluntarily.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? I put the proposition. Those Members in favour of adopting it kindly show. Against? The proposition is adopted.

Deputy S.C. Ferguson:

May I just make a quick announcement? I will be very quick. **[Laughter]** I will stand here and talk for an hour and a half if people are not careful. I just wanted to say that following our meeting at lunchtime, after the co-ordination by the Chairmen's Committee, the Corporate Services Panel will be undertaking the review of the Import of Semen proposition. The Chairman will be Deputy Ryan and the members will Deputy Judy Martin, Deputy Le Hérisier, the Constable of St. John and the Constable of St. Saviour.

15. Draft Financial Services (Amendment of Law) (No. 3) (Jersey) Regulations 200- (P.45/2008)

The Bailiff:

The Assembly comes finally to the matter that was deferred, the Draft Financial Services (Amendment of Law) (No. 3) (Jersey) Regulations 200- and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Financial Services (Amendment of Law) (No. 3) (Jersey) Regulations 200-. The States, in pursuance of Article 4 of the Financial Services (Jersey) Law 1998, have made the following Regulations.

15.1 Senator P.F.C. Ozouf (The Minister for Economic Development):

This is an amendment to the Financial Services (Jersey) Law 1998 and follows the introduction of the unregulated funds regime by means of the Collective Investments Fund (Unregulated Funds) (Jersey) Order 2008. The effect of the amendment is to include regulated funds in the definitions of “fund asset” and “fund service business”. The unregulated fund is a new type of vehicle used by Jersey companies. It is for sophisticated investors. I am happy to give a briefing to any Member who wishes a more detailed explanation of exactly what an unregulated fund is. Suffice it to say it is one of the innovative new measures that we are putting in place for Jersey’s funds industry and I am delighted that it is having sufficient significant effect in winning business for Jersey. The effect of the amendment is that functionaries, i.e. the service providers of unregulated funds, will be subject to the Financial Services Law and therefore will be required to register with the Financial Services Commission and will be subject to the oversight by the commission. I should say to Members that in the Commission’s very helpful agreement of this new provision to our financial services arrangements, it was a requirement that they put down that the service provider should come under the oversight of the Law. Sir, I move the preamble to the Regulations.

The Bailiff:

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

15.1.1 Deputy R.G. Le Hérissier:

I wonder if the Solicitor General could explain this enormous paradox of why an unregulated fund needs Regulations.

Senator P.F.C. Ozouf:

I think that is political question, not necessarily one for the ...

The Bailiff:

Unless the Solicitor General wishes to intervene, I think the Minister can reply to the question.

Senator P.F.C. Ozouf:

Unless there was any other question?

The Bailiff:

I do not think so.

15.1.2 Senator P.F.C. Ozouf:

The Solicitor General is well able to speak for himself, and if he wishes to make any remarks he is, of course, willing to do so. The issue is that I do agree that there is somewhat of a language issue between being an unregulated fund and being regulated but we are dealing with 2 different types of regulation. We are dealing with the regulation in respect of what the fund is and the funds operation, the different investments that are made, and the regulatory requirements which must be covered by all arrangements and structures and funds in Jersey by the anti-money laundering arrangements, anti-terrorism financing, *et cetera*. I agree with the Deputy that in an ideal situation one would probably not have wanted to use the word “unregulated”. However, it did send out to investors the very clear message that this structure was unregulated in the sense that it was being unregulated in terms of the actual fund and investments. I hope that is helpful. I am happy to give way to the Deputy if he has a further supplementary question for the Solicitor General, perhaps.

Deputy R.G. Le Hérissier:

On a point of qualification, what alternative terms were considered? This does give a very unfortunate impression.

Senator P.F.C. Ozouf:

On this issue I have to say that I have taken the advice of the Financial Services Commission and the industry who worked extremely hard to try and find a way forward which basically meant that the Jersey funds industry had a competitive structure in order to compete with other jurisdictions, particularly Guernsey. The Commission were firm and resolute in their arguments that they wanted to send out the clear message that this was an unregulated fund in terms of the actual investment criteria and the oversight of the fund itself. That does not mean to say that there are any issues about it being not regulated for the purposes of all the regulation that the Financial Services Commission deals with, A.M.L. (anti-money laundering), *et cetera*. I am afraid there were not alternatives considered because the Commission insisted that that should be regulated and I have to say that I fully support their position on that, hence the term of unregulated funds was made. If the Solicitor General wishes to add any remarks to that ...

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

Thank you, no. I do not think there is anything I usefully could add. **[Approbation]**

The Bailiff:

I put the principles. Those Members in favour of adopting kindly show. Against? The principles are adopted. Do you propose the Articles, Minister?

Senator P.F.C. Ozouf:

I think the Articles are self explanatory and answer any questions that Members may have.

The Bailiff:

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on the Articles? I put the Articles. Those Members in favour of adopting them kindly show. Against? The Articles are adopted. I did neglect, Deputy Southern, to ensure your Panel did not wish to scrutinise this matter but I take it ...

Deputy G.P. Southern (Chairman, Economic Affairs Scrutiny Panel):

We have already considered it, Sir, and the answer is no.

The Bailiff:

Do you propose the Bill in Third Reading, Minister?

Senator P.F.C. Ozouf:

Yes please, Sir.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak? I put the Bill in Third Reading. Those Members in favour of adopting it kindly show. Against? The Bill is adopted in Third Reading. That concludes public business.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Bailiff:

We come to the arrangement of public business for future meetings. I call on the Chairman of P.P.C.

16. Connétable D.F. Gray of St. Clement (Chairman, Privileges and Procedures Committee):

I would like to propose the items listed on the pink sheet under M, with 3 additions and one alteration. The addition on 13th May is P.49 which is the Working Party to review appropriateness of departmental structures. The alteration is from 3rd June which is P.194 - Jersey Enterprise Board Limited: proposed establishment - which is moved to 17th June. The addition on 1st July is P.36 which is the Draft Sea Fisheries (Inshore Trawling), *et cetera*. The final one is the Importation of Bovine Semen - P.43 - which is listed for 15th July. They are the alterations, Sir, that I propose.

The Bailiff:

Are there any matters Members wish to raise on the proposed arrangement of business?

16.1 Senator P.F.C. Ozouf:

The list of business for 3rd June does look like a very heavy set of business. Has the Chairman of P.P.C. estimated how long that business will take? If he thinks it is going to be in excess of 2 days I wish to just make a remark.

The Connétable of St. Clement:

It could possibly be 2 days.

16.2 Deputy C.J. Scott Warren:

Can I just clarify - because I presume that the meeting was made when Members thought that the sitting would go on until tomorrow - whether the Housing Needs Survey meeting is still going to take place tomorrow at lunchtime?

The Bailiff:

It appears to be yes, Deputy. The States has concluded the business. The meeting is closed. The States will reconvene on 9th May.

ADJOURNMENT