

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 25th SEPTEMBER 2012

QUESTIONS.....	7
1. Written Questions	7
1.1. THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING BENEFITS ASSOCIATED WITH THE GRANT TO THE JERSEY RUGBY CLUB:	7
1.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHIEF MINISTER REGARDING THE CLARIFICATION OF CERTAIN ISSUES BY THE FORMER COMPTROLLER AND AUDITOR GENERAL AND FORMER INTERIM TREASURER:	7
1.3 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE MOVEMENT AND REMOVAL OF SEAWEED FROM THE ISLAND'S BEACHES:	8
1.4 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING BACKGROUND CHECKS ON OFF-ISLAND COMPANIES AWARDED CONTRACTS FOR CAPITAL PROJECTS:	8
1.5 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE ELECTION OF JURATS:	9
1.6 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE IMPACT, IN TERMS OF NEGATIVE EQUITY, OF THE LOSS OF THE FINANCE INDUSTRY IN JERSEY:	10
1.7 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING POLICY CHANGES IN RESPONSE TO CHILD ABUSE ALLEGATIONS:	11
1.8 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE WAY IN WHICH CUSTODIAL SENTENCES ARISING FROM CHILD ABUSE CASES WERE DETERMINED:	11
1.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE TEACHING OF MODERN FOREIGN LANGUAGES IN JERSEY SCHOOLS:	12
1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING ECONOMIC GROWTH FORECASTS:	13
1.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE EFFECT OF ECONOMIC GROWTH ON POPULATION LEVELS:	14
1.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ECONOMIC BASIS FOR THE INCREASE	

IN PERSONAL TAX YIELDS AND THE REASONS FOR CERTAIN DEPARTMENTAL UNDERSPENDS FOR 2012:	14
--	----

2. Oral Questions.....16

2.1 Deputy M. Tadier of St. Brelade to the Minister for Social Security regarding access to Income Support for mature students:.....	16
Senator F. du H. Le Gresley (The Minister for Social Security):	16
2.1.1 Deputy M. Tadier:	17
2.1.2 Senator S.C. Ferguson:	17
2.1.3 Deputy G.P. Southern of St. Helier:	17
2.1.4 Deputy G.P. Southern:.....	18
2.1.5 Deputy T.A. Vallois of St. Saviour:	18
2.1.6 Deputy J.A. Martin of St. Helier:	18
2.1.7 Deputy T.M. Pitman of St. Helier:	18
2.1.8 Connétable P.J. Rondel of St. John:	19
2.1.9 Deputy M.R. Higgins of St. Helier:.....	19
2.1.10 Deputy M.R. Higgins:	19
2.1.11 Deputy M. Tadier:.....	19
2.2 Deputy M.R. Higgins of the Minister for Treasury and Resources regarding the managed print service tender process:.....	20
Senator P.F.C. Ozouf (The Minister for Treasury and Resources):	20
2.2.1 Deputy M.R. Higgins:.....	20
2.2.2 Senator S.C. Ferguson:	21
2.2.3 Senator S.C. Ferguson	21
2.2.4 Deputy T.M. Pitman:	21
2.2.5 Deputy R.G. Le Hérisssier of St. Saviour:	22
2.2.6 Deputy G.P. Southern:.....	22
2.2.7 Deputy M.R. Higgins:.....	22
2.3 Deputy R.J. Rondel of St. Helier of the Minister for Social Security regarding alternative payments to bring pension increases for 2012 and 2013 closer in line with the cost of living:	23
Senator F. du H Le Gresley (The Minister for Social Security):	23
2.3.1 Deputy R.J. Rondel:.....	23
2.3.2 Deputy G.P. Southern:.....	24
2.3.3 Deputy C.F. Labey of Grouville:.....	24
2.3.4 Deputy K.L. Moore of St. Peter:	24
2.3.5 Senator L.J. Farnham:.....	25
2.3.6 Deputy R.J. Rondel:.....	25
2.4 Deputy T.M. Pitman of the Chief Minister regarding matters under discussion at the Liberal Democrat Conference by the Assistant Chief Minister:.....	25
Senator I.J. Gorst (The Chief Minister):	25
2.4.1 Deputy T.M. Pitman:	25
2.4.2 Deputy G.P. Southern:.....	26
2.4.3 Deputy M. Tadier:	26
2.4.4 Deputy M. Tadier:	26
2.4.5 Deputy T.M. Pitman:	26
2.4.6 Deputy T.M. Pitman:	27
2.5 Deputy G.P. Southern of the Minister for Transport and Technical Services regarding the transfer of current employees of Connex to the new bus service provider CT Plus:	27
Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services):	27

2.5.1 Deputy G.P. Southern:	28
2.5.2 Deputy T.M. Pitman:	28
2.5.3 Deputy R.G. Le Hérisier:	28
2.5.4 Deputy M. Tadier:	28
2.5.5 Deputy G.P. Southern:	28
2.6 Deputy G.C.L. Baudains of St. Clement of the Minister for Home Affairs regarding further investigations into the fatal crash on St Clement's Coast Road:	29
Senator B.I. Le Marquand (The Minister for Home Affairs):	29
2.6.1 Deputy G.C.L. Baudains:	29
2.6.2 Deputy R.G. Le Hérisier:	30
2.6.3 Deputy T.M. Pitman:	30
2.6.4 The Connétable of St. John:	30
2.6.5 Deputy M. Tadier:	31
2.6.6 Deputy G.C.L. Baudains:	31
2.7 Deputy S. Pitman of St. Helier of the Minister for Economic Development regarding staff conditions on the Condor Ferries route from Portsmouth:	32
Senator A.J.H. Maclean (The Minister for Economic Development):	32
2.7.1 Deputy S. Pitman:	32
2.7.2 Deputy M. Tadier:	32
2.7.3 Deputy M. Tadier:	33
2.7.4 Deputy R.G. Le Hérisier:	33
2.7.5 The Connétable of St. John:	33
2.7.6 The Connétable of St. John:	34
2.7.7 Deputy S.G. Luce of St. Martin:	34
2.7.8 Deputy J.A. Martin:	34
2.7.9 Deputy S. Pitman:	34
2.8 Connétable J.M. Refault of St. Peter of the Minister for Planning and Environment regarding the proposed listing of private gardens:	35
Deputy R.C. Duhamel (The Minister for Planning and Environment):	35
2.8.1 The Connétable of St. Peter:	35
2.8.2 The Connétable of St. John:	36
2.8.3 Deputy R.J. Rondel:	36
2.8.4 Deputy R.G. Le Hérisier:	36
2.8.5 The Connétable of St. Peter:	37
2.9 Deputy R.J. Rondel of the Minister for Treasury and Resources regarding the loan agreed for the Parish of Trinity to provide 'affordable' homes:	37
Deputy E.J. Noel of St. Lawrence (Assistant Minister for Treasury and Resources - rapporteur):	38
2.9.1 Deputy R.J. Rondel:	38
2.9.2 Deputy M. Tadier:	38
2.9.3 Senator S.C. Ferguson:	39
2.10 Deputy T.M. Pitman of the President of the Chairman's Committee regarding an investigation by Scrutiny into the establishment of a media ombudsman:	40
Deputy T.A. Vallois (President of the Chairman's Committee):	40
2.10.1 Deputy T.M. Pitman:	40
2.10.2 Deputy M. Tadier:	40
2.10.3 Senator P.F.C. Ozouf:	41
2.10.4 Deputy T.M. Pitman:	41

2.11 Deputy G.P. Southern of the Chief Minister regarding the safeguarding of employment rights during the transfer of Connex employees to the new bus service provider CT Plus: 42	
Senator I.J. Gorst (The Chief Minister):	42
2.11.1 Deputy G.P. Southern:	42
2.11.2 Deputy G.P. Southern:	42
2.11.3 Deputy G.P. Southern:	42
2.12 Deputy M.R. Higgins of the Chief Minister regarding an extension of the time limit for the submission of applications under the Historic Abuse Redress Scheme:	43
Senator I.J. Gorst:	43
2.12.1 Deputy M.R. Higgins:	43
2.12.2 Deputy T.M. Pitman:	44
2.12.3 Deputy R.G. Le Hérissier:	44
2.12.4 Deputy M.R. Higgins:	44
2.13 Deputy G.C.L. Baudains of the Minister for Transport and Technical Services regarding the proposed new charging system for Sand Street car park:	45
Deputy K.C. Lewis (The Minister for Transport and Technical Services):	45
2.13.1 Deputy G.C.L. Baudains:	45
2.13.2 Deputy M. Tadier:	46
2.13.3 Deputy M. Tadier:	46
2.13.4 Senator L.J. Farnham:	46
2.13.5 Senator L.J. Farnham:	47
2.13.6 Deputy G.C.L. Baudains:	47
3. Questions to Ministers without notice - The Minister for Housing	47
3.1 Deputy G.P. Southern:	48
Deputy A.K.F. Green of St. Helier (The Minister for Housing):	48
3.1.1 Deputy G.P. Southern:	48
3.2 Deputy T.M. Pitman:	48
3.3 The Connétable of St. John:	49
3.4 Deputy M. Tadier:	49
3.4.1 Deputy M. Tadier:	49
3.5 The Deputy of St. Peter:	50
3.6 The Deputy of St. Peter:	50
3.7 Deputy S. Pitman:	50
3.8 Connétable D.J. Murphy of Grouville:	50
3.8.1 The Connétable of Grouville:	51
3.9 Deputy M. Tadier:	51
3.9.1 Deputy M. Tadier:	51
3.10 Deputy G.P. Southern:	51
3.10.1 Deputy G.P. Southern:	51
3.11 Deputy G.P. Southern:	52
3.12 Deputy S. Power of St. Brelade:	52
3.12.1 Deputy S. Power:	52
4. Questions to Ministers without notice - The Minister for Planning and Environment	52
4.1 The Deputy of St. Martin:	52
Deputy R.C. Duhamel (The Minister for Planning and Environment):	52
4.1.1 The Deputy of St. Martin:	53

4.2	The Deputy G.P. Southern:.....	53
4.2.1	The Deputy G.P. Southern:.....	54
4.3	Deputy S. Pinel of St. Clement:.....	54
4.4	Deputy J.M. Maçon of St. Saviour:.....	54
4.5	The Connétable of St. Peter:.....	55
4.6	The Connétable of St. John:.....	56
4.6.1	The Connétable of St. John:.....	56
	Deputy T.A. Vallois:.....	57
PUBLIC BUSINESS		57
5.	Draft Taxation (Miscellaneous Provisions) (Jersey) Regulation 201- (P.74/2012).....	57
5.1	Senator I.J. Gorst (Chief Minister):.....	57
5.1.1	Deputy M. Tadier:.....	58
5.1.2	Senator I.J. Gorst:.....	58
5.1.3	Deputy M. Tadier:.....	58
5.1.4	Senator I.J. Gorst:.....	58
5.1.5	Mr. H. Sharp Q.C., H.M. Solicitor General:.....	58
5.1.6	Deputy M. Tadier:.....	59
5.1.7	Senator P.F.C. Ozouf:.....	59
5.1.8	Senator I.J. Gorst:.....	60
6.	Draft Banking Business (Depositors Compensation) (Amendment and Miscellaneous Provision) (Jersey) Regulations 201- (P.78/2012).....	62
6.1	Senator A.J.H. Maclean (The Minister for Economic Development):.....	62
6.1.1	Deputy G.P. Southern:.....	63
6.1.2	Deputy J.M. Maçon:.....	63
6.1.3	Deputy M.R. Higgins:.....	63
6.1.4	Senator L.J. Farnham:.....	63
6.1.5	Deputy M. Tadier:.....	64
6.1.6	Senator A.J.H. Maclean:.....	64
6.1.7	The Solicitor General:.....	65
6.1.8	Deputy M.R. Higgins:.....	66
6.1.9	Senator A.J.H. Maclean:.....	66
6.1.10	Deputy M.R. Higgins:.....	67
6.1.11	Senator B.I. Le Marquand:.....	68
6.1.12	Senator A.J.H. Maclean:.....	68
7.	Draft Banking (Depositors Compensation Supplementary Provisions) (Jersey) Regulations 201- (P.77/2012).....	68
7.1	Senator A.J.H. Maclean (The Minister for Economic Development):.....	69
7.1.1	Senator L.J. Farnham:.....	69
7.1.2	Senator A.J.H. Maclean:.....	69
8.	Draft Banking Business (Amendment No. 8) (Jersey) Law 201- (P.76/2012).....	70
8.1	Senator A.J.H. Maclean (The Minister for Economic Development):.....	70
8.1.1	Deputy J.H. Young of St. Brelade:.....	70
8.1.2	Senator A.J.H. Maclean:.....	71
9.	Draft Bankruptcy (Désastre) (Amendment No. 6) (Jersey) Law 201- (P.79/2012)	71
9.1	Senator A.J.H. Maclean (The Minister for Economic Development):.....	71

9.1.1 Senator L.J. Farnham:.....	72
9.1.2 Deputy M.R. Higgins:.....	72
9.1.3 Senator P.F.C. Ozouf:.....	73
9.1.4 Deputy J.M. Maçon:	73
9.1.5 Senator B.I. Le Marquand:.....	74
9.1.6 Senator A.J.H. Maclean:	74
Deputy T.A. Vallois:.....	76

ADJOURNMENT.....	76
-------------------------	-----------

[9:30]

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

QUESTIONS

1. Written Questions

1.1. THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING BENEFITS ASSOCIATED WITH THE GRANT TO THE JERSEY RUGBY CLUB:

Question

Were any benefits, such as free dining at home matches, agreed when the £75,000 grant was made to the Jersey Rugby Club and, if so, who will enjoy such hospitality at the taxpayers' expense?

Answer

For the purposes of clarification, the £75,000 the Connétable refers to relates to a sponsorship initiative, not a grant. As is standard practise when entering into a sponsorship initiative, the sponsor gains benefits in return for financial support. In this case, the benefits accrued are significant marketing opportunities for both Jersey Tourism and Locate Jersey to bolster tourism in the off-season and to provide an exploitable platform for attracting inward investment and high net worth individuals.

The marketing opportunities secured through this sponsorship include the potential for a table at home matches. This will be used by Locate Jersey for business development purposes to exploit potential investment opportunities. A Departmental policy has been put in place so that there is a maximum of two hosts per table of ten, with the remainder being investors or potential investors. Local intermediaries will only be included in any corporate hospitality opportunity if they are accompanied by a potential investor.

1.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHIEF MINISTER REGARDING THE CLARIFICATION OF CERTAIN ISSUES BY THE FORMER COMPTROLLER AND AUDITOR GENERAL AND FORMER INTERIM TREASURER:

Question

Following the Chief Minister's statement on 10th July 2012 that he and the Chairman of the Public Accounts Committee were "in the process of writing to the former Comptroller and Auditor General and to the former Interim Treasurer for further clarification of issues", would he update members as to the progress to date and agree to make available to members the details of that clarification?

In his e-mail circulated to all States members on 25th June 2012, the former Interim Treasurer stated "I'm informed that sections from your report are being quoted for political purposes" can the Chief Minister now tell us as a result of his research by whom the Interim Treasurer was 'informed' - and when - or, if not, will he find the answer and communicate it to members?

Answer

A joint letter from the Chief Minister and the Chair of the Public Accounts Committee (PAC) has been sent to the former Comptroller and Auditor General and the former Interim Treasurer requesting further information and clarification on the issues raised. As soon as both responses are received I shall arrange to review them with the Chair of PAC, and a position will then be taken and communicated to States Members.

I am advised that the Minister for Treasury and Resources contacted the former Interim Treasurer on 13th June 2012 to clarify the accuracy of aspects of the former Comptroller and Auditor General's report attributed to the former Interim Treasurer, which would seem to be a reasonable course of action given concerns regarding the Report's accuracy.

1.3 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE MOVEMENT AND REMOVAL OF SEAWEED FROM THE ISLAND'S BEACHES:

Question

Does the Minister consider that, in most instances, moving seaweed from the high water mark to lower down the beach serves little purpose and, if so, why does his Department continue doing it?

What alternative processes, if any, is he currently considering for dealing with beach seaweed and does that include incineration?

Answer

The Department's cleaning regime is such that seaweed is normally only cleaned after a 'spring tide' so each day the high tide mark is lower than the day before, reducing the result of newly deposited seaweed at the top of the beach. The Department only does this type of seaweed removal when it is absolutely necessarily and then only for the 'top' of the beach.

The degree of effectiveness of moving the seaweed down to the low water line is, to a large extent, dependant on the tides and weather. It is not possible to say how much of the seaweed deposited at low tide actually comes back up the beach but some inevitably does return. However, if the seaweed is left too long at the top of the beach, especially in warm weather, it starts to smell and rot and by reintroducing it into the sea it seems to refresh it and reduces the problem.

Due to the exceptional amount of seaweed that was deposited on the shore this summer, I have tasked Officers with reviewing the existing beach cleaning operation and look at alternative options for dealing with seaweed in 2013. This report is due to be completed by the end of 2012.

With regards to incineration it is unlikely that this will be viable option due to the fact that in order to process the seaweed in the EFW it would need to be dried, and the sand removed, and could only be taken in very small quantities and mixed with higher calorific value material as seaweed itself is mostly water so will have a very low calorific value. If too much seaweed was sent to the EFW there is a risk of difficulties in maintaining proper combustion which could lead to emission breaches, loss of electrical production and increase of fuel oil and chemical usage.

1.4 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING BACKGROUND CHECKS ON OFF-ISLAND COMPANIES AWARDED CONTRACTS FOR CAPITAL PROJECTS:

Question

Will the Minister advise what background checks, if any, are carried out on off-Island companies before awarding contracts for capital projects, in order to be satisfied that the company concerned is a suitable choice?

Are enquiries made of people in the area in which such companies either reside or operate of the standing of these companies and, if not, why not?

Answer

The States of Jersey Accounting Manual has eight parts each of which consists of Financial Directions and/or other guidance documents. These Financial Directions provide mandatory requirements for the purchasing of goods and services.

Financial Direction 5.1 – Purchasing of Goods and Services and Financial Direction 5.6 – The Control of Capital Expenditure, advise on the requirements for background credit checks on all companies prior to their engagement.

A copy of Clause 2.1.14 from Financial Direction 5.1 is re produced below for information below:

Due diligence and award of contract

2.1.14. Prior to awarding the final contract the Accounting Officer (or their delegate) must ensure that appropriate due diligence has been undertaken on the supplier, including checks on creditworthiness, legal standing (including outstanding claims) and the provision of a performance bond if necessary. If the purchase exceeds £100,000 a formal credit check must be performed by the States approved Credit Checking Agency; contact your finance team to facilitate this. A nominal fee will be charged by the external agency. For values less than £100,000 consideration should also be given to a formal credit check where commercial risks are present (e.g. the supplier requires payment up front or ‘stage payments’ not associated with project deliverables or the goods or services are quite new or innovative to the market).

These procedures are followed for all Companies prior to the final award of a Contract

In addition to these financial checks, enquiries are made and references taken up to ensure the Company has the relevant skills, experience and standing in order to complete the capital project to the satisfaction of the Department

1.5 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE ELECTION OF JURATS:

Question

Will H.M. Attorney General advise whether the present election process for Jurats, whereby Jurats are elected by an electoral college of States Members and individuals from within the judiciary, is compatible with ensuring avoidance of a ‘blurring’ of lines between legislature and judiciary?

Answer

There is no difficulty as such in the legislature being involved in the process of appointment. In many legal systems, Judges are selected by the executive.

In any event, the question is not factually accurate in that the electoral college comprises not only, as the question states, States Members and some members of the judiciary but also all of the advocates and solicitors of the Royal Court. States Members are a minority in the electoral college.

The independence of the Jurats is secured by restrictions on their removal, at any rate without cause pursuant to Article 9 of the Royal Court (Jersey) Law 1948. It is only the Order of Her Majesty in Council on petition of the Superior Number of the Royal Court who may remove a Jurat from office. States Members have no role in that process. This security of tenure and freedom from external pressure from the legislature or executive is at the cornerstone of judicial independence and the good administration of justice.

1.6 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE IMPACT, IN TERMS OF NEGATIVE EQUITY, OF THE LOSS OF THE FINANCE INDUSTRY IN JERSEY:

Question

Given the rapidly changing economic climate and growing international opposition to offshore financial centres or 'tax havens' will the Minister advise whether the Treasury has estimated the impact, in terms of negative equity, of a collapse or relocation elsewhere of the finance industry and, if so, would be provide details for members?

Answer

No. Whilst never complacent, the Minister is confident our financial services industry can and will continue to share in market opportunities presented by the growth in worldwide demand for financial services. The significant benefit the City of London, and thereby the UK and European economies, gains from Jersey's financial services activities should continue to be recognised and therefore is likely to continue to be supported by this UK Government as it was with the previous one. However, financial services in both the UK and the EU continue to undergo major structural regulatory reforms together with increasing competition from other global centres such as those in Asia, Latin America and the Gulf. Ministers continue to understand, research and identify opportunities including how technology will change these industries and secure opportunities for Jersey building on our strengths of stability, trust, quality and innovation.

When the G20 and other international bodies express concerns about "tax havens" those concerns are for what is described generally as non-cooperation in complying with the relevant international standards. Jersey has no reason to fear action being taken against non-cooperative jurisdictions because we are internationally recognised as a jurisdiction that has a high standard of compliance with the international standards for financial regulation, anti-money laundering and transparency and exchange of information for tax purposes. The recent report on financial services highlighted on page 69 of this week's Economist states that contrary to conventional wisdom, providers such as Jersey "were much more likely to comply with the standards than those from the OECD, a club of mostly rich countries."

The Minister will concentrate on giving support to the finance industry, from which residents benefit greatly, in its development of existing and new markets and products. He will also work to further enhance Jersey's reputation internationally as a cooperative, high quality international finance centre. In doing so the Minister trusts he will have the full support of all States members.

In addition to all of this work, to ensure that Jersey diversifies its economy, significant effort is being applied to developing Jersey's digital economy, which will be complementary to ensuring new financial services business in Jersey's economy.

1.7 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING POLICY CHANGES IN RESPONSE TO CHILD ABUSE ALLEGATIONS:

Question

Will the Minister clarify what differences/changes in policy have been put in place with regard to reporting allegations of child abuse since the Victoria College incident and the subsequent Sharp Report and how does the policy both then and now comply with the Children (Jersey) Law 2002?

Answer

The ESC Department has a duty of care to children and young people in its care, and the Children's Service has a statutory duty to investigate all referrals relating to the possibility that a child is at risk of significant harm. Since 1990 investigations have been undertaken by the joint Children's Service and Police Family Protection Team, now known as the Public Protection Unit.

In addition, ESC has updated and developed its policies in this area in line with UK guidelines and best practice on safeguarding young people. These are regularly reviewed.

The policy requires all allegations to be reported to the Department, which takes a multi-agency approach and refers cases to the Children's Service where appropriate and if it is considered there is a risk to a young person.

The Senior Education Welfare Officer at the Department is the lead Child Protection Officer for the Service and each school has their own trained child protection co-ordinator. ESC abide by the Children (Jersey) Law 2002 and the Jersey Child Protection Committee procedures. We use the JCPC referral forms and thresholds.

All staff working with children and young people must have an awareness of child protection procedures. Training is in place in all schools and areas of the organisation and takes places regularly so that every employee understands their role and obligations in safeguarding young people in their care.

1.8 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE WAY IN WHICH CUSTODIAL SENTENCES ARISING FROM CHILD ABUSE CASES WERE DETERMINED:

Question

Given the variation in the custodial sentences arising from recent child abuse cases, will H.M. Attorney General clarify what is actually taken in to consideration by the courts when reaching such decisions?

Answer

As for all other cases, the appropriate sentence in a child abuse case will depend upon the particular facts of each individual case. The term “child abuse” covers both physical and sexual abuse and the circumstances of individual cases may differ greatly.

In all cases which are brought before the courts, the courts will be referred to and will take into account sentences given in previous cases which are relevant to the case before it in determining the appropriate sentence. In cases which are dealt with before the Royal Court, the Attorney General moves Conclusions, in other words advises the Court on the appropriate sentence, and will have regard to the relevant previous cases before determining what Conclusions he should move.

As already stated, each case will depend on its own individual facts but the types of matter which the court will take into account before determining the appropriate sentence will include the nature and duration of the abuse, the number of victims, their age and vulnerability, the impact which the offender’s conduct has had, whether the defendant was in a position of trust and whether the defendant has pleaded guilty and spared the victims the ordeal of giving evidence. The court will also have some regard to the age and state of health of the defendant and matters that may be contained in reports prepared for the court by probation and other services.

1.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE TEACHING OF MODERN FOREIGN LANGUAGES IN JERSEY SCHOOLS:

Question

Following the broad support in his response to questions on 11th September 2012, for the improvement of access to modern foreign languages (MFL) in Jersey schools, will the Minister agree to produce a report on the teaching of MFL in schools to include for the period 2002-2012 –

- (a) the range of languages available in Jersey schools to GCSE and A/A2 levels
- (b) the numbers of classes and of students taking GCSE and A/A2 level in MFL
- (c) the number of students going on to study MFL at degree level
- (d) a breakdown of results at GCSE and A/A2 level
- (e) an analysis of what policy decisions have contributed to the trends revealed by these figures?
- (f) what policy measures might contribute to increasing/improving the teaching of MFL over the period of the Medium Term Financial Plan to 2015 to include a review of the use of modern language teaching assistants and the removal of class size restrictions on class size at exam level?

Answer

The Education Sport and Culture Minister is required by law to establish a ‘balanced and broadly based’ basic curriculum for children of compulsory school age. Modern foreign languages are included. French is compulsory from Key Stage 2 in primary school to the end of Key Stage 3 in secondary school. French is not compulsory at GCSE but has to be offered by all schools and approximately 60% of pupils take it to exam level. Schools have the flexibility to offer a range of other languages and this is driven by student demand.

The Jersey Curriculum, which is based on the UK National Curriculum but tailored to Jersey requirements, is constantly under review by the Curriculum Council, which I chair and which comprises head teachers, teachers, Professional Partners and ESC officers. Work is already under

way on a broad curriculum review, which will look at other jurisdictions and will have to take into account the changes to the UK exam system, particularly the proposed introduction of the English Baccalaureate. This work will include all subjects.

I do support an increase in the uptake of modern foreign languages but want to avoid taking a piecemeal approach to curriculum change, especially at a time when the UK exams system is undergoing such fundamental change. I would like to look at modern foreign languages in the context of an overall curriculum review.

1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING ECONOMIC GROWTH FORECASTS:

Question

Will the Minister include the Office for Budget Responsibility’s figures for growth in the UK economy for 2010-2015 missing from Table 1 in his answer to written question 7053 on 11th September 2012 and state why he did not include these figures in the answer?

If the Fiscal Policy Panel advise that his forecasts for real growth in GDP/GVA are optimistic will the Minister reduce spending in the Medium Term Financial Plan or maintain spending through borrowing?

Answer

The figures requested were not included in Table 1 simply because that summarised the data used in Chart 1 which covered IMF forecasts for a number of key regions of the world and the equivalent assumptions used in the MTFP for Jersey. The Office for Budget Responsibility forecasts and the assumptions used in the MTFP were summarised and described in the next section of the answer and the supporting chart. It was explained that although Jersey is forecast to grow at a slightly higher rate in 2012, the UK is forecast to grow more quickly in 2014 and 2015, meaning that by 2015 there is little difference in the rate of growth over the period as a whole. The data requested is provided in the table below.

MTFP Jersey assumptions v OBR UK forecasts						
	Outturn	Forecasts				
Real economic growth % change	2010	2011	2012	2013	2014	2015
Jersey	-5.0*	1.2	1.4	2.0	2.5	2.5
UK	2.1	0.8	0.8	2.0	2.7	3.0

If the Fiscal Policy Panel revise down their existing forecasts for Jersey real economic growth then the Minister will listen to their advice on what it means for the balance of fiscal policy over the life of the MTFP and in particular whether a different course of action is recommended. This will be given full consideration by the Minister and the Council of Ministers and if necessary amendments will be brought to the MTFP to reflect that advice. The Minister does not want to second guess possible revisions or recommendations from the FPP. He will await their report, which is due to be published on October 1 2012.

* The falls in total GVA (3% in 2008, 6% in 2009 and 5% in 2010) were driven by the performance of the Finance sector. These should be put in the context of strong growth in 2006 and 2007 (5% in each of those years), and growth in years subsequent to 2010. The drivers for the period of negative growth were the worldwide financial services crisis and interest rates.

1.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE EFFECT OF ECONOMIC GROWTH ON POPULATION LEVELS:

Question

Given that the Treasury forecasts for real growth in GDP/GVA for 2012 – 2015 range from 1.4% to 2.5% over and above inflation this means growth at or above 5% over this period, what measures, if any, does the Chief Minister have under consideration to ensure that such high growth rates are not accompanied by population increases such as were seen during the 2006 – 2007 when growth was at similar levels?

Answer

Growth in 2006 and 2007 was well in excess of that forecast in any year of the Medium Term Financial Plan (MTFP). The 5% real growth in 2006 and 2007 compares to real growth assumptions in the MTFP that average just less than 2% over the 2011-2015 period and never exceed 2.5% in any one year.

The Economic Growth and Diversification Strategy agreed by the States in July sets out how we will deliver economic growth without recourse to significant net inward migration. That is by focusing on encouraging innovation and improving competitiveness, growing and diversifying the financial services sector, creating new business and employment in high value sectors and raising the productivity of the whole economy while reducing the reliance on inward migration.

The 2012 Strategic Plan sets out that we will agree population and immigration policy in July 2013 once we have time to assess the implications of the new population model which was published ahead of schedule last week and to undertake wide public consultation on the basis of the most up to date information.

In the meantime and in line with the actions set out in the Strategic Plan we are already taking action to control inward migration. We are granting permission for non-locally qualified staff only when thoroughly justified and issuing J-cats only where high economic value is demonstrated, where local staff are not available and where employment is safeguarded or created. The Population Office has been reducing spare capacity (particularly for non-locally qualified staff) as Regulation of Undertakings licences expire.

The introduction of the new Control of Housing and Work Law and Register of Names and Addresses Law in January 2013 will improve the effectiveness of our migration controls, meaning that we are better able to achieve whatever policy is decided by the States next year.

1.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ECONOMIC BASIS FOR THE INCREASE IN PERSONAL TAX YIELDS AND THE REASONS FOR CERTAIN DEPARTMENTAL UNDERSPENDS FOR 2012:

Question

Following the publication of the half year corporate report 2012, will the Minister explain to members what he believes to be the underlying economic basis for a £13.7 million improvement in personal tax yield over expectations?

Will the Minister account to members for the Treasury and Resources £1.2 million underspend ‘attributable to the timing of restructuring provision funding for Procure to Pay’ and explain whether this represents a failure to deliver policy objectives in a timely manner?

Answer

The question consists of two unrelated elements which will be answered separately.

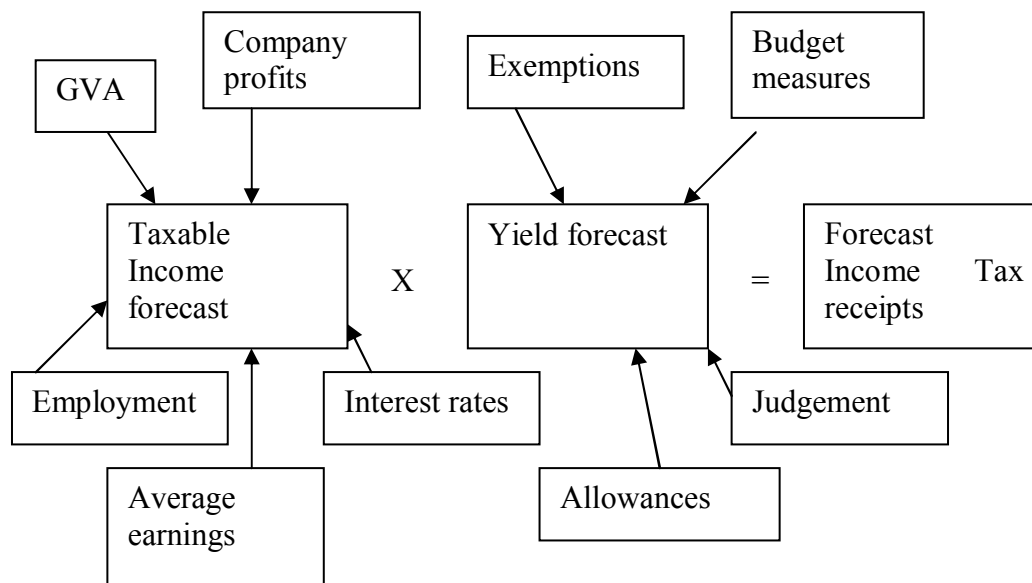
Part one

The figure the Deputy has extracted from the Half-Year Corporate Report appears to be the £13.7 million favourable year to date variance on General Revenues income (as opposed to Departmental income). The full year forecast provides a more complete picture. At the start of each year the budgets for income and expenditure are allocated across months in which they are expected to occur. If that income or expenditure occurs in a different month than expected there can be variances which do not necessarily represent underlying increases or decreases. However, the year to date data does provide useful information from which full year forecasts can be revised.

To answer the first part of the question, the £13.7 million favourable income variance at the end of June was made up of the following:

	Actual	Budget	Variance to Budget
	£'000	£'000	£'000
INCOME - ANALYSIS OF GENERAL REVENUES			
Tax Revenue	(260,933)	(246,832)	14,101
GST	(42,719)	(43,994)	(1,275)
Impôts	(25,922)	(24,941)	981
Stamp Duty	(11,394)	(12,117)	(723)
Other	(16,225)	(15,574)	651
Total Income from General Revenues	(357,193)	(343,458)	13,735

The year to date favourable variance on tax revenues was therefore £14.1 million. Of this personal tax accounted for £13.6 million and company tax £0.5 million. The personal tax figure was based on a similar number of completed assessments at this stage of the year to 2011. As detailed in the MTFP there are two main elements to forecasting personal tax revenue:- total taxable income and the yield derived from that taxable income.



Analysis suggests that the £13.6 million improvement in personal tax is due to improvements in the *yield* from the forecast taxable income, rather than an improvement in the total level of taxable income itself. (It should be noted that personal tax includes sole traders and partnerships). It is therefore too soon to attribute any changes to underlying economic factors that are affecting the level of personal tax receipts.

Part two

The Procure to Pay system will improve the requisitioning and payment processes for buying goods and services from corporate contracts. Whilst the current plans for the delivery of CSR savings do not rely upon the delivery of the Procure to Pay system, the system when implemented will be a major step forward in putting us in a position to have States wide data and information on contracts that will help us aggregate spending by departments and help identify future savings. The aim is to deliver long term improvements in procurement processes and the short delay regarding the purchase of the system does not represent a failure to deliver a policy objective in a timely manner. The underspend relates to restructuring funding drawn down but not yet spent. Any unspent funding at the end of the project would be returned to that budget.

The tender for a Procure to Pay system has been completed and a supplier selected. This supplier is currently completing the proof of technology stage of the procurement process and the final system specification is being developed.

2. Oral Questions

2.1 Deputy M. Tadier of St. Brelade to the Minister for Social Security regarding access to Income Support for mature students:

Will the Minister advise what criteria, if any, exist for allowing mature students to maintain their Income Support allocation while studying in further education and confirm whether some potential students are more at risk of having their Income Support cut if they go on to study than others and if so, why?

Senator F. du H. Le Gresley (The Minister for Social Security):

The Income Support system is based on working age adults supporting themselves through employment as far as possible. Income Support can also be provided if the individual has little

prospect of employment with their current skills and a period of full-time education would be likely to provide them with relevant work-related skills and increase their prospects of finding employment locally. As well as courses at Highlands College, adults aged over 19 can receive support through the Advance Plus scheme, which combines work-related training with work placements. The Income Support team liaises closely with the Back-to-Work team, specialist Workwise advisers, career advisers and Highlands College to ensure that each individual job seeker receives advice and guidance to undertake appropriate education or training to develop work-related skills. The application process for courses at Highlands includes advice on financial support at an early stage to ensure that students understand their benefit entitlement. I can confirm that an individual who voluntarily leaves employment to take up full-time study is unlikely to receive support through Income Support benefit and may therefore suffer a cut. A move of this nature would only be supported if the potential student had compelling medical or personal reason, which affected their existing employment. A mature student over the age of 25 wishing to undertake a full-time 3-year degree level course would, as a general rule, not be eligible for Income Support benefit. Exceptions can be made in specific circumstances or for a course which combines studying and paid work experience, such as a nursing degree course.

2.1.1 Deputy M. Tadier:

I thank the Minister for that full answer. If I read some contact that I have had with a constituent who said she was initially told that Income Support were very supportive of her taking on further education and then said: "Within a month I received a letter saying that if I do not leave Highlands by Friday I would have my support removed" and that there was 10 days' notice with 4 removed already by letter date. She goes on to explain - I believe the Minister has probably seen the correspondence - that she did not receive much success from the department and was treated in what she felt was an unsatisfactory manner. But the question is, does the Minister accept that since the date that Social Security and Income Support were implemented there has been a vast increase in unemployment so there are more people chasing fewer jobs. Also that there needs to perhaps be a review of the policy given that those who cannot find jobs because they do not exist or they do not have developmental training need to be given a level playing field so that they can access a higher education without having obstacles put in their way?

Senator F. du H. Le Gresley:

Obviously I cannot go into the circumstances of an individual case but I hope in my original answer I made it clear to Members that where we assess that taking on an educational course at Highlands College or other suitable training would assist people with finding a job, which of course is what we are all about at Social Security, then they will be encouraged to do that and assisted to do that but the maximum time would be a one-year course. We would not normally be encouraging people to do a course longer than one year.

2.1.2 Senator S.C. Ferguson:

As a corollary to this, will the Minister confirm that mature students will receive credits for pension contributions while they are undertaking a degree course?

Senator F. du H. Le Gresley:

There is a scheme whereby people attending a university degree course are entitled to credits and this would of course normally apply to people under the age of 25, but I will check that and confirm to the Senator whether that applies to mature students.

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

Will the Minister state whether receipt of an education grant for a particular course is regarded for Income Support calculations?

Senator F. du H. Le Gresley:

The provision of what I think the Deputy refers to is the maintenance grants for a local student attending a degree course at the university centre at Highlands College, would be available to somebody under the age of 25 but the majority of students in that category will be living at home and therefore the grant would replace effectively the personal component of Income Support.

2.1.4 Deputy G.P. Southern:

For an independent student, not at home, would receipt of an education grant be regarded for the Income Support calculation?

Senator F. du H. Le Gresley:

Yes, it would.

2.1.5 Deputy T.A. Vallois of St. Saviour:

The Minister mentioned in his first answer relative working skills. Could the Minister therefore advise who determines exactly what “relative working skills” are?

[9:45]

Senator F. du H. Le Gresley:

Yes, I would confirm that this is through a meeting of the people who are relevant to this decision, which would be careers advisers, Highlands College tutors, the individual concerned at the Back-to-Work team, and the people who look after Income Support. So it would be looked in the round by all the relevant people.

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

Is it not a fact that somebody who may be in finance at the moment who is then unemployed or wishes to change career, if they want to go into, say, a caring profession, not nursing, just say a healthcare assistant, then Income Support will not support them because they look at it as they are downgrading? Whereas if it is the other way round people will be supported. As Deputy Vallois says, who says what is relevant to somebody’s own circumstances and what is needed in the Island?

Senator F. du H. Le Gresley:

I keep going back to my original answer to Deputy Tadier’s question. If somebody chooses to leave full-time employment to go into studying then we are very unlikely to assist them with Income Support benefit. That applies whether they want to go into a different type of profession - which the Deputy suggests may be lesser paid - or whether they want to improve their employment chances by doing a totally different course. But the point that Members need to understand that Income Support benefits are to support people who are actively seeking work and are fit to get into work. We are not substituting our benefit for education grants.

2.1.7 Deputy T.M. Pitman of St. Helier:

The lovely Deputies on my right and left have stolen my thunder a little, however I would just like to continue the theme and ask the Minister, was it not a comparatively short time ago that Deputy Southern put forward the very sensible idea of having a designated selection of courses that might have been very helpful in this so people could know where they stood, and is there any work being done in developing that?

Senator F. du H. Le Gresley:

Department officers will have their own list, if you like, of courses that they would feel would be appropriate but of course each individual is different and their needs are different, and we would

not want to be so specific that we make a list of courses which people might choose as an option rather than actively seek work.

2.1.8 Connétable P.J. Rondel of St. John:

What availability is there within Social Security for a person being retrained in the trades, which takes 4 to 5 years? What kind of support is there within Social Security for the long-term training given somebody who is totally inexperienced going to be a plumber, for instance, or electrician, where the first 2 years are basically paid at a very low rate? Is there support for these people being retrained?

Senator F. du H. Le Gresley:

Yes, I can confirm to the Constable that in those circumstances where somebody is in work and learning a trade and perhaps on a low... they would have to of course be either on the trainee rate within the minimum wage or the minimum wage itself. If they were self-supporting, in other words if they were renting their own accommodation, we would certainly consider them for Income Support benefit to top up so that they could afford to live a reasonable standard of living.

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

Can the Minister tell me whether there is any strategy at all within the Council of Ministers between Education and Income Support to deal with training? Because we seem to talk about university courses as if it is the only form of training there is. There are many people in this Island who want to develop skills which would be for the benefit of the Island and the economy and they are not getting assistance from Education; they cannot get grants for it or they are not getting money from Income Support. If we are going to deal with the unemployment situation and provide the workforce we need for the future, does the Minister have a strategy and, if not, when is he going to get one?

Senator F. du H. Le Gresley:

I would say to the Deputy that there is... in fact we had a meeting yesterday of the Skills Executive which is chaired... the Chair rotates but the 3 Ministers sitting on that is myself, the Minister for Education, Sport and Culture and the Minister for Economic Development, and the Skills Board reports to us and it is their role to make sure that we are joined up in the provision of training and skills training across the Island.

2.1.10 Deputy M.R. Higgins:

Can I just ask a supplementary? You mentioned a meeting yesterday but is there a strategy in place and how long is it going to take? Obviously there is not, but how long will it take?

Senator F. du H. Le Gresley:

There are numerous strategies starting from age 14 upwards to mature students and I cannot tell you that there is one strategy across all groups but there are individual strategies for different groups of people. There is a lot of work going on particularly with apprenticeships and a launch of a new apprenticeship scheme which is very relevant to getting people back into work.

2.1.11 Deputy M. Tadier:

I have had information from a professional at Highlands College who says that several students have approached her and said that they are too scared to approach Social Security and tell them that they have not got a job, so they are paying for their own study. Does the Minister not think it is a strange situation that Social Security will pay somebody who cannot find work to maybe not find work and not have anything meaningful to do with their day or pay them the same amount of money so that they can better themselves in the context of a higher education or further education

college? Will the Minister undertake to review what seems to be a discretionary system so that proper policies, if they do exist, can be put in place so that people are not made to feel as if they are being pushed from pillar to post?

Senator F. du H. Le Gresley:

I am not quite sure where the Deputy was going with that particular question but the important thing perhaps to make clear is that if somebody on Income Support, particularly if they are actively seeking work, wishes to study at home then we do encourage that to increase their qualifications and we will provide assistance with the cost of courses and materials in those circumstances. I know the Deputy would like me to be more specific as to regard the policy but we do have a policy. I am happy to provide the Deputy with a copy of that policy and, at the moment, I do feel it is sufficient for the current circumstances under which we are working.

Deputy G.P. Southern:

Will he circulate that policy to all Members?

Senator F. du H. Le Gresley:

I would have to check with officers but I see no reason why I could not do that.

2.2 Deputy M.R. Higgins of the Minister for Treasury and Resources regarding the managed print service tender process:

Does the Minister believe that the managed print service tender process was well handled and that the contract entered into with Danwood represents the best value for the Jersey taxpayer and, if so, would he please explain to the Assembly why?

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

Yes, this process I believe has been well handled. A competitive tender process began in 2008 with adverts appearing in the *J.E.P. (Jersey Evening Post)* and the *Official Journal of the European Union*, which is the official notification system for public procurement projects. Supplies were shortlisted using a pre-qualification questionnaire which required tenderers to have a Jersey-based support. A thorough procurement process followed, including site visits, detailed site surveys and installing a trial device at a pilot site. Suppliers were scored on 3 elements: their technical response, user feedback and commercial arrangements, of course, including price. On this criteria Danwood Jersey offered the best value and was selected as the preferred supplier. This is one of the important procurement savings which is designed to deliver £6 million worth of savings for the Assembly by 2013. The States were spending £1.6 million on printing, we think, and the target is to deliver £250,000 worth of saving. The aims of the arrangements are also to reduce the amount of printing devices in the States. There are currently 2,600 devices and the aim is to reduce them to around 1,000, also to reduce the number of the types of device from currently 700 devices to a standardised number of 12. Also to provide better information and to reduce pay per use, quite apart from time and energy costs. Early indications show that print volumes themselves are falling. I saw a report yesterday which showed that in certain sites they are down by 39 per cent for mono printing and 65 per cent for colour. There are, of course with all changes, a number of individual sites where the benefits are not yet fully being realised, but these will be resolved with staff training and working with the supplier.

2.2.1 Deputy M.R. Higgins:

Will the Minister tell the Assembly whether an internal or external report has been carried out into this contract by the Treasury and, in particular, into copy charges and capital outlay, following

concerns in States departments who say that savings have been deducted from their budgets but no savings have been proved? Will he please tell the States what this internal survey has revealed?

Senator P.F.C. Ozouf:

The Treasury, of course, carries out monitoring of reviews of all important areas and indeed the whole procurement area is an important aspect whereby we are trying to remove £6 million from departmental budgets and sometimes departments. The experience of other transfers of money from setting up corporate departments of course has revealed that sometimes departments are unwilling to give up those budgets. Treasury has to prove that those savings are realised. Yes, there has been a report and I reviewed a draft of it with the Treasurer last night, and I am very pleased with the process and the progress of this whole project. It is reorganising the way that printing, which is an expensive commodity in the States, is being delivered. Yes, there are going to be some departments that do not agree but, frankly, the amount of devices in the States, energy saving costs, paper saving costs, enabling users to understanding what they are spending in terms of their printing, is the way that we are delivering savings. Actually the £250,000 target I think is probably a lot bigger when taking management time and all the other costs associated with it.

2.2.2 Senator S.C. Ferguson:

The Minister is aware that Danwood is a local subsidiary, somewhat manufactured of a U.K. (United Kingdom) firm; why was no action taken to encourage local suppliers to join in a consortium?

Senator P.F.C. Ozouf:

As I understand it, as with all procurement, there were. Indeed there have been some excellent working relations with Economic Development and Procurement to raise the game of local suppliers in order that they may sometimes join forces and deliver their opportunity of delivering the public better value for money. On this occasion a local supplier was not chosen.

2.2.3 Senator S.C. Ferguson

Supplementary, Sir? Given that up until recently the Treasury had no idea of the cost of printing, will the Minister supply and circulate an analysis of the overall transaction to demonstrate that it is value for money, because there are grave doubts about that.

Senator P.F.C. Ozouf:

I am afraid to say that I think Senator Ferguson doubts quite a lot of the things that I say, but I am afraid [**Laughter**] to say that I am very confident about the ability of the procurement and the Treasury to deliver savings. Let us just consider again the States of Jersey had 2,600 printing devices. We are reducing that to 1,000. We are cutting the amount of devices from 700 different types of printers and fax machines and copiers to 12. That is saving huge amounts of effort and time of individuals of their departments. I would imagine that the Senator should be encouraging the Treasury to deliver this kind of savings and no, we did not know the full cost of savings because of course you do not know how much Health or T.T.S. (Transport and Technical Services) is going to be spending on management time wasted on printer devices, energy costs of printers left on, *et cetera*. But we do now have a handle on it and I would hope that she would celebrate such a marvellous successful project so far.

Senator S.C. Ferguson:

I would like the evidence.

2.2.4 Deputy T.M. Pitman:

I am still shocked that anyone would doubt the word of the Minister for Treasury and Resources. The Minister mentioned a figure of a drop of 39 per cent, I think. Could he advise the Assembly on this because is it not a fact that, certainly from what I have been fed back from within E.S.C. (Education, Sport and Culture), the reality has been that the company has not been able to supply some services and materials that it should have done, which has left schools struggling. If that is what is contributing to this 39 per cent drop, that cannot be a good thing. I would ask and hope that the Minister agrees with me.

Senator P.F.C. Ozouf:

I completely agree. Hopefully I have saved on some printing costs myself and used for the first time an iPad to answer my question this morning, so perhaps it is through technology that we can stop printing. But we do need to save paper. It costs money. I think the target of removing 20 per cent of the costs of the number of prints that are done certainly can be easily achieved.

[10:00]

Certainly, as our schools become more involved in I.T. (information technology) as we roll out new technology with the Minister for Education, Sport and Culture and his team, there are going to be huge savings that are going to be taken for that. The Deputy is right, some schools have struggled with some of the new arrangements but the best endeavours of the Procurement Department are being put to help those schools deal with it and also to remove their own costs, which is better for everybody.

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

There has been in the last few years an outbreak of very glossy publications extolling the weaknesses... sorry, the achievements of our many government agencies. These have clearly cost a lot of money. Is it the Minister's intention to persuade people to move more of these to the internet and, secondly, how many Jersey jobs have been created by this Jersey-based company?

Senator P.F.C. Ozouf:

I do not know the answer to that last question but I will endeavour to find out. I would not want to stop printing of glossy publications when they are as good as the St. Martin's magazine [**Members: Oh!**] that has been put in Members' desks and all the parishes that do their magazines. They are great because not everybody has got a tablet. But of course the Deputy is correct when he says that there has been a rooting out of States departments doing glossy self-promotion, and I think there has been far less of them that are appearing in the boxes that we pick up in our areas but of course we all need to be moving to tablets because it is a lot cheaper.

2.2.6 Deputy G.P. Southern:

Can I just clarify that Danwood is the beneficial owner and non-local and therefore it is zero-rated and is generating no tax for the States of Jersey?

Senator P.F.C. Ozouf:

Yes, that is correct, and there is nothing new about that. I will be making some proposals in relation to non-financial services in the Budget, as I promised a number of months ago. There is no scoring of points in relation to that, and the States of Jersey must get best value having regard to customer service and all other matters. We should not be protectionist. That is the way that we will not deliver our savings.

2.2.7 Deputy M.R. Higgins:

I was very pleased to see the Minister for Treasury and Resources so confident about this particular contract. I hope that the Minister for Treasury and Resources will give an undertaking that if it is

discovered the tender process was seriously flawed, and if this contract is not generating the savings that he believes it is creating, that he will resign?

Senator P.F.C. Ozouf:

Let us be clear on a couple of things. Ministers and this Assembly set policy and it is for our departmental officials to implement policy. I expect the highest standards in all of my departments, with my Assistant Minister and I am confident in the Procurement Department. If there are issues that would come to light in relation to any aspect of our administration we would take action. In this case, for once, I would ask the Deputy to say: "Is it not a good thing that we are trying to save money and deliver better value for money" rather than simply carping at me and asking for me to resign.

Deputy M.R. Higgins:

Does that mean another civil servant will go?

Senator P.F.C. Ozouf:

Can I ask the Deputy to withdraw that? I think that there was a personal remark in relation to me which was inappropriate.

The Bailiff:

I am sorry, I did not quite hear it.

Deputy M.R. Higgins:

The Minister was so confident in this thing here he says he sees no need to resign. I just asked if that would mean another civil servant will be going because there are flaws in this contract.

2.3 Deputy R.J. Rondel of St. Helier of the Minister for Social Security regarding alternative payments to bring pension increases for 2012 and 2013 closer in line with the cost of living:

As the Social Security (Jersey) Law 1974 requires pensions to be increased in line with the Jersey Earnings Index, would the Minister advise whether he is looking at alternative payments to bring pension increases for 2013, and indeed 2012, closer in line with the cost of living?

Senator F. du H Le Gresley (The Minister for Social Security):

I can confirm that I am looking at a variety of methods to provide targeted support to local pensioners. This was clearly set out in our States debate earlier this year on "triple lock" and more recently the Minister for Home Affairs confirmed that this matter would be investigated. I will be meeting interested Ministers in approximately 4 weeks' time to discuss a number of possible proposals, which are currently being drawn up. Members will recall that a new cold weather bonus to support pensioners with fuel costs has already been introduced earlier this year and the second bonus payment in respect of October to December will be made next January. I do not favour a pension increase linked to the cost of living as it will disadvantage pensioners in the long term. Over the last few years we have experienced low rises in the earnings index due to the global economy and relatively high increases in the retail price index partly due to the introduction of G.S.T. (Goods and Services Tax). Despite this, the historic linking of the old age pension to the earnings index continues to ensure that the value of the pension has risen substantially above the increase in prices over the last 12 years. As I have previously stated, I do favour providing targeted support to pensioner groups, subject to agreeing with fellow Ministers, the source of this additional funding that will be required and I will be pursuing this area actively over the next few months.

2.3.1 Deputy R.J. Rondel:

I thank the Minister for that reply but I just wondered if he could give a clearer timeline on when he may be able to advise Members on other benefit schemes for the pensioners and, just out of interest, whether the Minister would be able to inform the Assembly what percentage of pensions are paid locally as opposed to off-Island?

The Bailiff:

I am not sure that last question arises out of the question. I do not suppose the Minister will have the information at his fingertips.

Senator F. du H. Le Gresley:

The meeting that I mentioned is scheduled for 30th October and so between now and then we will be drawing up proposals for the Ministers to consider and announcements will be made after that meeting. I have the information the Deputy is seeking. We have 16,000, approximately, local pensioners of which there are 1,570 pensioner households on Income Support.

2.3.2 Deputy G.P. Southern:

The Minister must be aware that at a time when pensions are going up by 1.5 per cent, States housing rents will be going up by 3.5 per cent, I believe many pensioners will be worse off before he has his meeting about what he plans to do about this. What is he going to do about this?

Senator F. du H. Le Gresley:

I may have misheard what the Deputy said, but the rise in the rents in the States sector of 3.5 per cent is matched by a rise in the rental component within Income Support. I accept that there are some States tenants who do not claim Income Support. That is not to say that some of them perhaps may be entitled but they have never come and asked for Income Support. However, it is a fact, and I cannot deny it, that rents are going up in the public sector, which if somebody is not on Income Support the pensioners will have difficulty in finding the extra money.

2.3.3 Deputy C.F. Labey of Grouville:

Will the Minister be looking at the “triple locking” system as part of his review of the pensions?

Senator F. du H. Le Gresley:

No.

The Deputy of Grouville:

Could he expand on that and tell us why not?

Senator F. du H. Le Gresley:

Because we have had a States debate. The proposition was proposed by Senator Breckon, the proposition was lost and I do not propose to go and look at “triple lock” again.

2.3.4 Deputy K.L. Moore of St. Peter:

My question was related to that of Deputy Southern’s but I would like the Minister to elaborate slightly, if he could, because there are States tenants who do not claim Income Support currently who are very concerned about this rise in their rent. I would like to know from the Minister what communication has taken place with those tenants in order to reassure them about the future costs, because many are already concerned by the increased cost of food.

Senator F. du H. Le Gresley:

We are talking about, I assume, pensioners who live in States housing who do not claim Income Support. I do not know, and my department do not know, who those people are and therefore any communication would have to come from the Minister for Housing.

2.3.5 Senator L.J. Farnham:

Just a clarification: I think the Minister has acknowledged that pensioners have suffered extraordinarily over the last 2 to 3 years given the unique economic circumstances, and States policy such as the one-off hit from the increase in G.S.T. Will he just confirm to give pensioners in the meantime the peace of mind that he will be proposing some form of increase for pensioners and that it will be backdated accordingly?

Senator F. du H. Le Gresley:

I cannot confirm what the Senator is asking me to confirm. I would like to draw Members' attention to what is happening in Guernsey. Members may be aware that the Minister for Social Security in Guernsey has proposed a 3.6 per cent increase in old age pensions. The Minister for Treasury and Resources in Guernsey is opposed to this because the fact is that their social security fund will be running out of money very quickly. They are currently running deficits of £7.67 million per year, which will increase with the proposed increase in the pensions. I am not prepared, as Minister for Social Security, to damage the prospects of people currently in work receiving a fair pension and therefore I will not be doing what the Senator proposes.

2.3.6 Deputy R.J. Rondel:

I would just ask the Minister, and indeed the Council of Ministers, to make it a priority to communicate as much as possible with the pensioners as to what they are planning to do because there are a lot of them who are very concerned about prices, such as of food, and are struggling. So I think it is important, we owe it to them to liaise and communicate as much as possible.

The Bailiff:

So the question is would the Minister agree to that?

Deputy R.J. Rondel:

Would the Minister agree? Thank you.

Senator F. du H. Le Gresley:

Yes.

2.4 Deputy T.M. Pitman of the Chief Minister regarding matters under discussion at the Liberal Democrat Conference by the Assistant Chief Minister:

Will the Assistant Chief Minister be discussing our justice system when he attends the forthcoming Liberal Democrat Conference and, if not, why not?

Senator I.J. Gorst (The Chief Minister):

The Assistant Chief Minister is, as the questioner says, currently at the Liberal Democrat Conference and is holding a number of discussions with Liberal Democrat M.P.s (Members of Parliament) and Lords. He will no doubt take the opportunity to discuss a wide range of issues in relation to Jersey.

2.4.1 Deputy T.M. Pitman:

The U.K., of course, has a Justice Ministry and a priority when that was set up, if I can read it, was to ensure that: "Law-making is transparent and accessible, safeguarding civil liberties and enabling

citizens to receive the proper protection of the law.” What I would ask the Chief Minister is that given the sort of lax casual approach that was taken in this Island when Ministerial government was set up, we have no Justice Ministry - that seems to me just sort of cosy little groups - would it not have been wise to have some approach to the U.K. for assistance in developing that into a more formal footing?

Senator I.J. Gorst:

I am not sure how that arises out of the question relating to the Liberal Democrat Conference, and I do not believe or accept the premise of the Deputy’s question with regard to our justice system. But if he feels that it should be administered in a different way with a special ministry oversight then of course that is for him to bring forward that proposition or we can consider what it is that he has in mind. But I do not, at this point, see the need for it.

2.4.2 Deputy G.P. Southern:

I note with interest the Assistant Minister stating at the Liberal Democrat Party Conference that Jersey is not a tax haven. Will the Chief Minister encourage his Assistant Minister to go further and invite as many wealthy Lib Dem donors to move to Jersey to benefit from our wealth management expertise and our guaranteed confidentiality?

The Bailiff:

Deputy, I think it is hard to see how that one arises out of the original question.

2.4.3 Deputy M. Tadier:

Will the Assistant Chief Minister be able to discuss with the Liberal Democrats why U.K. M.P.s appear to have a greater ability to speak openly about matters, including Jersey matters, without censorship on their *Hansard* when we States Members do not enjoy the same level of privilege in our own Island Assembly?

Senator I.J. Gorst:

Once again I refute that we do not enjoy that same parliamentary privilege in this Assembly. We do. When it comes to parliamentary privilege in the United Kingdom House of Commons, that of course is a matter for them.

[10:15]

2.4.4 Deputy M. Tadier:

Will the Minister clarify that? I was particularly talking about the point about censorship of our *Hansard*. For example we had an incident which was curious this week where 2 weeks ago Deputy Trevor Pitman made a comment only for a name to be removed from our *Hansard*, only later on for a Mr. Hemming M.P. to name in a different way in the Assembly in the House of Commons. That is what I am referring to. Does the Minister still maintain that we have exactly the same level of parliamentary privilege that they enjoy in the U.K.?

Senator I.J. Gorst:

I do not see how the Deputy’s comments would indicate otherwise. As I said, with regard to naming of individuals and parliamentary privilege, that is an issue for the House of Commons. A ruling was made in this place. I was not here so I do not know the details, but a ruling was made and that is right that we stand by that ruling.

2.4.5 Deputy T.M. Pitman:

Deputy Tadier has rather led the way in what I was going to ask, however on that same theme, is it not a concern to the Chief Minister when he is sending his Assistant Minister away, that having

heard the Assistant Minister's speech where he referred to what is certainly, in several cases, hard evidence fact that Mr. Hemming brought up, as being of dubious sources not official reports. Would it not be beneficial, in hindsight, that the Minister ensured his Assistant stuck to the facts? That has to be better for our reputation long term; would the Chief Minister not agree?

Senator I.J. Gorst:

I do not accept that what was said in the United Kingdom House of Commons was in actual fact accurate. I have not heard the reporting of my Assistant Minister's comments but I have no doubt that they would have been factual and appropriate, as we would expect from Senator Bailhache. Perhaps I could just revisit parliamentary privilege. If any Member feels that it is inappropriate that people named should not be struck from *Hansard* then of course it is for this Assembly to change that rule to allow it to be otherwise, but I believe, as I said, that the Chair was right and made a ruling in line with the rules that govern this Assembly, and it is encumbered upon every Member to be careful not to abuse parliamentary privilege.

Deputy T.M. Pitman:

Could I have a final supplementary relating to what has been said?

The Bailiff:

Yes.

2.4.6 Deputy T.M. Pitman:

I must ask, given that answer from the Chief Minister, has he read the Sharp Report, which I did ask him to do about 3 months ago, and if so is he making that statement in light of having read that report because I think that proves what Mr. Hemming said?

Senator I.J. Gorst:

I have not read that report. I do not see that Mr. Hemming referred to that report in his comments in the House of Commons.

2.5 Deputy G.P. Southern of the Minister for Transport and Technical Services regarding the transfer of current employees of Connex to the new bus service provider CT Plus:

Following CT Plus' confirmation that current employees of Connex will be required to attend an interview prior to their transfer, what steps, if any, has the Minister taken to deliver the assurances he gave to Members on 12th June 2012, that he would use his "best endeavours to transfer all staff to the new company" and will the transfer of staff and their terms and conditions follow T.U.P.E. (Transfer of Undertakings (Protection of Employment)) principles?

Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services):

I can confirm that I am and continue to use my best endeavours to facilitate the transfer of all staff in accordance with the conditions of the existing contract. I can also assure Members that positions exist within the new contract for all of the eligible staff on the same substantive terms and conditions as they presently enjoy. While not required by the contract, I have, as far as I am able, endeavoured within the tender to follow the principles of the U.K.'s T.U.P.E., however, as is made clear in the existing contract, to facilitate this I am reliant on the full co-operation of Connex and the union to provide employment information. I must advise Members that the detailed information which would reasonably be required by T.U.P.E. has not been provided and therefore could not be incorporated into the tender process. At present, Connex, due to internal issues, have been unable to provide such information as names and addresses of staff so they can be used to invite them to meet their new employer, CT Plus, and discuss the move. I am delighted to inform Members that

progress is being made to resolve this. In conclusion, I would reiterate that I am indeed using my best endeavours to facilitate the move of all staff and can confirm that positions exist for all the eligible staff. CT Plus is a social enterprise and a very credible and professional bus operator. One of their strengths is staff engagement, based on the fairness and equity, which they apply to run an organisation that is efficient and focused on the customer.

The Bailiff:

Deputy, do you wish a supplementary?

2.5.1 Deputy G.P. Southern:

I was very interested to hear that praise for CT Plus. Is the Minister aware that in Guernsey, CT Plus refused to recognise the representation from the unions there that have been recognised by the previous bus company?

Deputy K.C. Lewis:

My information is that they have recognised the union in Guernsey and much of the recent problems they have had are due to the bus fleets which do not belong to the company.

2.5.2 Deputy T.M. Pitman:

There seems to be a trend today; the question I want to ask gets asked. However, the Minister has referred to trying to adhere to the principles of T.U.P.E. and would it not - this is not a criticism - have been far more helpful to him if he could have helped push to get that T.U.P.E. in place, then we could have something firm and structured and he would not have to be endeavouring to apply to principles?

Deputy K.C. Lewis:

Not quite sure where the Deputy is going with that, but to get anywhere near a T.U.P.E. agreement, all relevant information must be provided to the new operator and so far, that information has not been forthcoming, such as names and addresses of staff *et cetera*, length of employment and the rest.

2.5.3 Deputy R.G. Le Hérissier:

Is the Minister saying that his agent, so to speak, for managing the bus service, Connex, is refusing to give basic information which it is in possession of?

Deputy K.C. Lewis:

In a nutshell, yes, but there has been, over the last few days, a great deal of movement on that and I am hopeful a resolution will arrive shortly.

The Bailiff:

Deputy Tadier and then a final question from Deputy Southern.

2.5.4 Deputy M. Tadier:

In the absence of T.U.P.E. legislation, how good are the Minister's best endeavours, and would he find it easier if there was T.U.P.E. legislation in place to follow?

Deputy K.C. Lewis:

There will be definitely a T.U.P.E. style agreement in place, and as I say, I am extremely hopeful and I feel very positive that an agreement will arrive shortly regarding the missing information.

2.5.5 Deputy G.P. Southern:

Is the Minister aware that myBus has placed its employees as identified as being at risk of redundancy, and this is a very stressful position to be placed in when this is a relatively straightforward transfer that he is in charge of from one bus company to another?

Deputy K.C. Lewis:

Yes, I am indeed aware of that, which is why I am still using my best endeavours to alleviate that stress. As soon as the information is forthcoming regarding employees' names, addresses, job specification *et cetera*, we will move forward on that.

The Bailiff:

Very well. We will come next to a question which Deputy Baudains will ask of the Minister for Home Affairs. Deputy Baudains.

2.6 Deputy G.C.L. Baudains of St. Clement of the Minister for Home Affairs regarding further investigations into the fatal crash on St. Clement's Coast Road:

With regard to the crash on St. Clement's Coast Road, which claimed the life of the Latvian lady passenger, would the Minister advise whether the States of Jersey Police consider that the case is now closed and, if so, will he be requesting an outside police force to review the case following the removal of the death by dangerous driving charge and, if not, why not?

Senator B.I. Le Marquand (The Minister for Home Affairs):

This is of course a very tragic case involving the loss of life of a young woman. The role of the States Jersey Police is to investigate crime and to provide reports to prosecutors, who make the decision in relation to charges. The initial charge in this case was one of causing death by dangerous driving, but on 10th July 2012, there was a hearing in the Royal Court in relation to the admissibility of 3 pieces of evidence; 2 of those pieces of evidence were held to be inadmissible, and as a result of that evidence no longer being available, the prosecution decided to reduce the charge to one of careless driving. The criminal case is completed but an inquest will follow, and of course there is also the possibility of a civil claim. I am unaware of any failure in this case on the part of the States of Jersey Police and therefore any basis for either a review of the case or for a disciplinary investigation.

2.6.1 Deputy G.C.L. Baudains:

I appreciate that this question really falls between 2 areas of accountability, but I want to focus on those the Minister is accountable for or responsible for. As he so rightly said, many people are expressing concern at the leniency of the penalty, and presumably that includes the family of the Latvian lady as well. So my first question is this: the Minister, I presume, confirms the reason that the charge of death by dangerous driving failed is because insufficient evidence was available. Given the level of public concern and the appalling message sent out, in my view, by the lenient sentence would the Minister agree that a review by an outside force is not uncommon in such cases, where they would be able to confirm that our States Police did in fact gain all the information and evidence that they possibly could in order to allay public concern?

Senator B.I. Le Marquand:

I do not agree with that because, frankly, the police conducted the work which they did under the supervision of prosecutors and additional reports were obtained from the U.K. on various technical aspects. I think that a real issue here is the lack of a charge of causing death by careless driving. My own view is that that is a charge which we should have. We do have a charge of causing death by dangerous driving but the test in relation to dangerous driving is quite a high test. I could quote if Members so wish. We have a charge of causing death through careless driving while under the

influence of alcohol, but we do not have a charge of causing death through careless driving. Now, the real problem lies exactly in this sort of case where there was evidence which got close to dangerous driving but not sufficient evidence once the admissibility issue was dealt with, and it is for exactly those sort of cases, which are very close to dangerous driving, that I believe we need to have this charge. My understanding is that the Law Officers are well aware of this. I also will seek to pursue this, although it does not strictly lie in my area, it lies in the area of the Minister for Transport and Technical Services, but I am firmly of the opinion that we do now need to have this additional charge.

2.6.2 Deputy R.G. Le Hérissier:

One of the issues, aside from the major one raised by Deputy Baudains, was the apparent inordinate amount of time. Has the Minister examined the whole timetable and all the various delays that occurred and is he satisfied that this proceeded at the greatest speed possible?

Senator B.I. Le Marquand:

I have not examined the timetable but I have received communication from the prosecutor, who very helpfully told me what happened. In addition to the initial expert collision report prepared by an officer of the States of Jersey Police, there was a need to obtain other expert reports from the U.K., one a general one and one on tyres. Subsequently, of course, there were issues that arose in relation to the obtaining of contrary reports by the defence, and my understanding is that the obtaining of the technical reports was a significant issue and caused significant delays. I have not of course looked at the precise timescales in relation to that, but clearly this was a matter of which the prosecutors were apprised and were overseeing.

2.6.3 Deputy T.M. Pitman:

I am obviously not an expert in this area, however, I would like to echo that it has been a grave concern to many, many people who have contacted me. I think it was 18 months that this took, and we have a very senior police officer feeling the need to go to the media and say that there was going to be no cover-up.

[10:30]

What I would like the Minister for Home Affairs to tell us is, given the concern that is in the Island, has he had any feedback from that poor young lady's family, because that is the centre of this, that someone has lost a daughter. Are the family happy with the way Jersey has handled this, and does the Minister know if that is going to be proceeding in any way?

Senator B.I. Le Marquand:

I have no knowledge of that. I do not get involved at that sort of level. This is a police operational matter. Producing the report again becomes a matter for prosecutors. It is simply not a matter that I would ever get involved with at that sort of level, at that sort of stage. I would comment that although people have talked about inordinate delays, I have before me the relevant documents. The incident occurred on 12th February 2011. Charges were first laid in the Magistrates' Court on 24th August 2011. That is a period of just over 6 months, which I would not view as being inordinate if it was necessary, as I have said, to obtain outside expert reports on this.

2.6.4 The Connétable of St. John:

Historically, accidents involving death *et cetera*, the Motor Traffic Office would be called in as the experts in relation to conditions of vehicles *et cetera*. Were they used on this occasion, because I understand you are referring to outside reports from off-Island; were the States of Jersey Motor Traffic Department called in on this? As I say, historically they would have been.

Senator B.I. Le Marquand:

I do not know the answer to that because I do not have that level of detail. I have the level of detail from the prosecutor in relation to matters concerning outside reports, but I can speak from my general knowledge of such matters. The area of investigation of accidents is a specialist area for which the police have their own local experts, and a specialist report was produced by the local expert on that. But of course issues may well arise during the course of investigation as to issues like the condition of the car, brakes *et cetera*. Now, clearly if such issues arose, those are issues that normally reports would be produced locally, initially also by the Motor Traffic Office. But as I say, in this particular case, the prosecutor has told me that there was a need to get expert reports on tyres from the U.K. That is all the knowledge I have on that.

The Bailiff:

Deputy Tadier, then a final question from Deputy Baudains.

2.6.5 Deputy M. Tadier:

The Minister, in his answer, highlighted the fact that this is really a legislative problem rather than a police failing, and given that the Minister is in a position to close what he called the gap in legislation, how and when will the Minister be bringing this legislation forward so that this kind of unfortunate thing cannot happen again?

Senator B.I. Le Marquand:

As I said, it is not in my area. The position in relation to road traffic offences is that they lie within the area of the Minister for Transport and Technical Services, with the exception of matters in relation to drink-driving. What I will do, and I am aware that the Law Officers are aware of this issue, is seek to endeavour to encourage them to take this forward. I will seek to encourage the Minister for Transport and Technical Services. We are already setting up a working group to look at sentencing, maximum sentences in relation to road traffic offences, and I will seek to also ensure that this goes on to the agenda of that meeting so that it is taken forward. But it is not strictly within my direct province.

2.6.6 Deputy G.C.L. Baudains:

I suspect my first part of this question will be out of the remit of the Minister, but I am confused as to why - because the charge that was eventually brought was inadequate, where I believe the penalty is a maximum of about £1,000 - perhaps a charge of manslaughter had not been brought, but I presume that may be out of the Minister's territory. But building on Deputy Tadier's question, I am glad to hear that the Minister appreciates that there is a gap in our charging, where a death by careless driving would properly be appropriate. I believe the United Kingdom brought such a charge in about 4 years ago. Because this apparently lies with Transport and Technical Services, could I ask the Minister to ensure that, through the Council of Ministers, the 2 Ministers work to get this done as soon as possible?

Senator B.I. Le Marquand:

Yes. I mean, clearly things happen better sometimes bilaterally, and this is an issue I will continue to take up with my colleague, the Minister for Transport and Technical Services. I can answer the question in relation to manslaughter, and of course the test in relation to manslaughter would be an even higher test than the test in relation to dangerous driving.

The Bailiff:

Very well. We come next to a question which Deputy Shona Pitman will ask of the Minister for Economic Development. Deputy Pitman.

2.7 Deputy S. Pitman of St. Helier of the Minister for Economic Development regarding staff conditions on the Condor Ferries route from Portsmouth:

Following reports that Condor Ferries are operating 2 vessels from Portsmouth with crew paid as low as £2.35 per hour, is the Minister concerned that Jersey has become a port of convenience for exploited seafarers and that the health and safety of Islanders travelling by sea could be at risk if ferry staff are working long shifts on a 3-month rotation?

Senator A.J.H. Maclean (The Minister for Economic Development):

On the face of it, this headline wage rate sounds unacceptable. However, there are other facts reported to us by Condor that should be considered: 90 per cent of the crew of Condor are recruited from within the European Union, and although a minority are recruited from the Ukraine, this is common practice by many shipping companies internationally. The Ukraine crew members are volunteers, who live aboard the vessels, which are the conventional freight ferries. We understand that all Ukrainian crew enjoy other benefits, which include free transport to and from Ukraine, as well as comprehensive medical and dental cover. In addition, all food and lodging during the 12-week stay on board is provided without deductions. The ships concerned are bound by U.K. legislation as they come and go daily into U.K. waters. That legislation covers qualifications, safe manning and hours of work. The shifts and the standards that the crew operate under are subject to inspection by qualified staff from the U.K. Maritime and Coastguard Agencies. So for these reasons, the answer to the Deputy's question is no, I do not think that Jersey has become a port of convenience or exploits seafarers, nor do I think that the health and safety of Islanders travelling by sea is at risk.

The Bailiff:

A supplementary?

2.7.1 Deputy S. Pitman:

Given that inside sources inform that these workers work for 3-month periods at 12 hours per day before getting a month off, these wages are both way below the U.K. and Jersey minimum wage and way outside of U.K. and E.U. (European Union) legislation on working hours. Is the Minister at least not concerned about potential health and safety issues?

Senator A.J.H. Maclean:

I would always be concerned about potential health and safety issues, and what I would say to the Deputy is that if she has some evidence, then please provide it to me and I will ensure that the matter is investigated fully. I picked up one point that she mentioned in that second supplementary question, and that was that they get 4 weeks off. I believe they get 6 weeks off, as far as I can understand, but anyway, I would like some evidence if there is any.

2.7.2 Deputy M. Tadier:

I am sure the shareholders and customers of Condor would be grateful for those reassurances which were put over by the Minister. Will the Minister use his influence to talk to Condor and maybe suggest that the senior management should also be sourced from Ukraine perhaps in a volunteer capacity so that those significant savings could then be passed on to Jersey customers who constantly seem to complain that they are facing high prices to get off this Island?

Senator A.J.H. Maclean:

I think Members, and Deputy Tadier included, seem to think that this is a matter that is solely one that Condor deals with. There are shipping companies around the world that operate in a similar fashion, and in fact, the Ukraine specialist recruitment agency, maritime recruitment agency, deals

with 50 shipping companies. This is not unique at all, and we must bear in mind the context of this issue.

2.7.3 Deputy M. Tadier:

A supplementary. The Minister seems to be using the argument that because other countries seem to engage in certain practices we should therefore do the same, and one could of course cite examples of sweatshops in India and other forms of exploitation. Will the Minister just confirm whether he is comfortable as the Minister for Economic Development in Jersey that people are being paid by a company that serves Jersey at an hourly rate which has been quoted at £2.35, while that rate would be completely unacceptable were it to be paid locally to Jersey residents or even to U.K. residents working for Condor?

Senator A.J.H. Maclean:

As the Deputy points out, this is not just a Jersey matter, it is also a U.K. and international matter. Am I comfortable? I think I made the observation in my opening remarks that at face value this does not seem acceptable. £2.35 an hour is not a rate that I like the sound of, but we have to meet competitive issues which the Island faces. We are meeting and the company itself is meeting international standards in all respects. It is meeting its obligations of existing legislation. That is all it can do, and we have to ensure that it does it on a local basis as well.

2.7.4 Deputy R.G. Le Hérisier:

Would the Minister not acknowledge that this is likely to apply to all aspects of the ferry company staffing? Is this a result of the kind of contract or the kind of agreement which the States has made with Condor that it is necessary for Condor to pay quite frankly fairly derisory rates to its staff, which is making a lot of people on this Island feel exceptionally uncomfortable?

Senator A.J.H. Maclean:

No, it has not anything to do with the commitments and the contractual arrangements or anything else. As I have said, this is an international issue. Some of the largest operators, shipping companies, P&O routinely use or source their staff from similar places, so this is not unusual. We may not like it at face value, but it is a fact of life and as long as the companies, Condor included, are meeting international legislation, our own legislation, then there is very little that we can do about it. The Deputy may well be aware that a fairly prominent U.K. politician has raised this matter in parliament.

2.7.5 The Connétable of St. John:

Given that the contract for Condor or for the route north and south is due to be reviewed by the E.D.D. (Economic Development Department), will the Minister make sure that in any contract being put in place that a minimum wage, whether it is made up in part through dental, through health, insurance *et cetera* is at least achievable by those members of staff within that contract, i.e. as I say, made up through direct lodging and air routes *et cetera*, but at least as long it meets the minimum wage, please?

Senator A.J.H. Maclean:

No, I regret that I cannot for 2 reasons. First of all, the Condor ships are registered outside of Jersey, and secondly, Article 101 of the employment law states that the law only applies to employment where the employee works wholly or mainly in Jersey. Therefore, this issue sits outside of Jersey legislation as far as employment practices are concerned.

The Connétable of St. John:

A supplementary, please, Sir.

The Bailiff:

Yes.

2.7.6 The Connétable of St. John:

Given that the ships ply between Jersey and the U.K. and Jersey and France and that that is the only routes they operate on, would the Minister not agree that they are employed mainly or wholly in Jersey?

Senator A.J.H. Maclean:

That is not my understanding. However, I am very happy at the request of the Connétable to seek a further legal opinion on the matter, but as I understand it, that is not the case and therefore this matter does not fall under Jersey legislation for employment purposes.

2.7.7 Deputy S.G. Luce of St. Martin:

Is the Minister aware of how many hours these employees are allowed to spend ashore during any time period of employment?

Senator A.J.H. Maclean:

No, I am not.

The Bailiff:

Deputy Martin, then a final question from Deputy Pitman.

2.7.8 Deputy J.A. Martin:

Yes, the previous answer, about 3 times, the Minister said that this is not just a Jersey problem, it is Jersey, U.K. and international, but surely what the Connétable of St. John is saying, it is our problem because the majority is between the U.K. and the Channel Islands, and we are condoning this. I find it interesting to say they get free dentistry. Well, if they are getting free dentistry in Jersey, they are probably on £50 an hour, but that is an aside. I just think the Minister is hiding behind international law but really we have Regulations of Undertakings and Development, we have the licensing conditions of Condor coming into Jersey, Guernsey and the U.K. and we should not be condoning people working for nothing or on a volunteer basis.

Senator A.J.H. Maclean:

I think I need to be clear here. I am not saying that I am condoning this, I am merely pointing out what the facts are, and the facts are quite simple, the matter of the employment and the rates of pay for staff working on these vessels is outside of employment legislation in Jersey. In fact, the company that employs these staff are a Guernsey-based company, but nevertheless, the issue as far as law is concerned relates to where they operate. They do not, as I have said, operate wholly and fulltime in Jersey waters and therefore fall outside of our legislation.

The Bailiff:

A final question then, Deputy Shona Pitman.

[10:45]

2.7.9 Deputy S. Pitman:

Yes. Does the Minister therefore not agree that as the Condor Ferries work between Jersey on several routes and come to Jersey that this does not look good for the Island and the fact that he as the Minister, is not saying anything and not taking any steps to try and do something about this does not look good for him and the Island?

Senator A.J.H. Maclean:

I do not think it looks any better or any worse than it does for the U.K., where the ships regularly visit; France, where they regularly visit St. Malo, Guernsey or ourselves. As I have said, it is a Guernsey company also that employs the staff or organises the employment of the staff. It is not a matter that we have any influence over. We have to bear in mind if we were to seek to condition through contractual arrangements - if that were possible, which I do not believe it is - then it would add additional cost and make the cost of travel to and from the Island potentially more expensive. Yes, there should perhaps be something done on an international basis but that is another matter.

The Bailiff:

We are running well behind schedule at the moment, so I must ask Members to ... very well, we come next to a question which the Connétable of St. Peter will ask of the Minister for Planning and Environment. Connétable.

2.8 Connétable J.M. Refault of St. Peter of the Minister for Planning and Environment regarding the proposed listing of private gardens:

Does the Minister give his proposed listing of private gardens a higher priority than the major development planning applications that are awaiting his determination that would contribute to necessary stimulus to our local economy?

Deputy R.C. Duhamel (The Minister for Planning and Environment):

No, this work does not enjoy a higher priority than dealing with major planning applications, as the Connétable well knows.

The Bailiff:

Do you wish a supplementary, Connétable?

2.8.1 The Connétable of St. Peter:

If I had known the answer to the question, I would not have asked the question in the first place. I think it might be best if I pointed out to the Minister I visited the department's website over the weekend and I found a very long list of large planning applications outstanding since 2007, and I wondered what the Minister had proposed to do with regard to these applications or is he proposing to focus on listing gardens instead?

Deputy R.C. Duhamel:

As I mentioned earlier, there is no formal link between the 2 workstreams. Indeed, the work, I must stipulate, does not detract from the important job of dealing with planning applications either by myself or by my department. Under the terms of the service level agreement with Jersey Heritage, they make recommendations to me about which aspects of the Island's historic environment are worthy of protection. The contract for the Historic Environment Review is being managed by Jersey Heritage and does not therefore impact on the work of my department in dealing with those planning applications. I only become directly involved in this process at the completion of the survey process, when decisions about whether to list the buildings and places are under consideration and where landowners have objected to proposals to list their property. Now, it has been referred in the press and media that there is an extensive list of outstanding applications. There is an extensive list of planning permissions that have been given. There are some 1,500 that are waiting with builders and speculator developers to be built. There are some 51 items that are outstanding and over 13 weeks old. The department, under my ministerial responsibility, implemented a tightening of the process and I am told that the current performance in 2012 is that

84 per cent of all applications are dealt with inside 13 weeks, which is the target date, and that this is the highest level of performance since 2005. Of the 50-odd items that are over 13 weeks old...

The Bailiff:

I think, Minister, you are going into a little too much detail, so I think we need to be concise.

The Connétable of St. Peter:

If I may, a supplementary?

The Bailiff:

No, you have had your first supplementary, Connétable. I will come back to you at the end. Connétable of St. John.

2.8.2 The Connétable of St. John:

Given the Minister stated at a Scrutiny hearing that it was not his intention to enforce officers being able to enter gardens for the purpose of surveying for S.S.I.s (Site of Special Interest), that being the case, will he withdraw the zany idea and save the taxpayers' money, and if not, why not?

Deputy R.C. Duhamel:

It is not a zany idea. In fact, the Constable should realise the reason why this work is being undertaken. Jersey is a signatory to the Convention for the Protection of the Architectural Heritage of Europe (Granada 1985) and I am bound under the terms of this - and this House is bound also - to ensure that the Island's heritage assets are appropriately protected. Those parks and gardens that are being reviewed include an assessment of around 30 private gardens and some 60 other properties which are not private, which include public parks and cemeteries, and the work needs to be done because it has not been done to date in order to tie in with the conventions, as I mentioned earlier, that this Island has agreed with. If indeed those persons not wishing to participate come forward and suggest that they do not wish to be part of a listing process, if indeed there is a difference of opinion, there is a legal process that will be entered into in order to allow those persons to have full say in a way that is fair.

2.8.3 Deputy R.J. Rondel:

Well, it has sort of been answered, but I will ask what I have written down. Would the Minister consider scrapping the proposed listing of private gardens to enable his staff - which I believe does take staff time - to focus on delivering planning applications in a quicker and more efficient timescale so that our construction industry, including private households that want extensions, are able to employ and deliver much-needed investment in our economy? Will he undertake to place all the research papers relating to this policy and put them in the waste bin, preferably for recycling?

Deputy R.C. Duhamel:

No, not until the survey work has been undertaken. I will place the papers on Members' desks and they will be the judges as to what they do with the papers thereafter.

The Bailiff:

Deputy Le Hérisier and then a final question to the Connétable of St. Peter after that.

2.8.4 Deputy R.G. Le Hérisier:

I wonder if the Minister could tell us what are his planning priorities at the moment.

Deputy R.C. Duhamel:

This Minister's planning priorities, as I mentioned earlier, was to tighten the performance of the department in treating applications. The statistics to date show that that has been done and I reiterate that the performances, a target of 84 per cent of all applications are being dealt with in 13 weeks. There do remain some legacy items that are on the books and you stopped me, Sir, when I was indicating the break-up...

The Bailiff:

Yes. Well, I am afraid I will stop you again then, Deputy.

Deputy R.C. Duhamel:

Saved by the Bailiff, thank you, Sir.

The Bailiff:

Very well. Then a final question from the Connétable of St. Peter.

2.8.5 The Connétable of St. Peter:

A question of clarification, if I may, initially. The Minister commented there are 1,500 approved applications. Could he also confirm over 1,000 of those are in the name of one developer? But my actual question is the Minister attended the Construction Industry Awards evening last Saturday evening, as did I. Did he share the concerns expressed by the President of the Construction Industry?

Deputy R.C. Duhamel:

I was sitting on his table and I certainly did share his concerns, but having explained the position, I think we both came to a fuller understanding of where the difficulties lie.

The Bailiff:

Very well, then we go to...

The Connétable of St. Peter:

The clarification on the number of approved applications. I asked for a point of clarification initially, Sir, that would he confirm that over 1,000 of the approved applications were in the name of one developer?

Deputy R.C. Duhamel:

Anecdotally, that is being put forward. I do not think I am at liberty at the moment or in a position to confirm that, other than to say that there are around about 1,500 homes that could be built tomorrow, should be built tomorrow and will be built when the developers involved decide to build them.

The Bailiff:

Very well. We come next to a question which Deputy Rondel will ask of the Minister for Treasury and Resources. Deputy.

2.9 Deputy R.J. Rondel of the Minister for Treasury and Resources regarding the loan agreed for the Parish of Trinity to provide 'affordable' homes:

Would the Minister advise the Assembly of the details of the loan that has been agreed for the Parish of Trinity in order for the parish to provide affordable homes?

Senator P.F.C. Ozouf:

Deputy Noel will take this question.

The Bailiff:

Assistant Minister.

Deputy E.J. Noel of St. Lawrence (Assistant Minister for Treasury and Resources - rapporteur):

This investment provides up to £6 million for the construction of 25 first-time buyer homes. Investment returns to the Treasury are in the region of 3.5 to 4 per cent per annum, which exceeds the current levels of return that the Currency Fund enjoys on its cash-based investments. Because the Treasury has requested security in the form of a promissory letter from the Parish of Trinity, it will avoid the parish incurring unnecessary legal costs. Similarly, the parish will not have to pay bank arrangement fees. So in essence, this is an investment that is a win for the parish and it is also a win for the Currency Fund. This is an example of how we can help parishes bring forward housing projects that meet local need. It is a project that is expected to have a 2-year build programme and will provide a stimulus to the economy. Further, it is in line with the 2012 Strategic Plan priority, housing our community, and is strongly supported by the Minister for Housing. The development is a good example of a shared equity scheme. It increases the supply of social homes, helping to reduce demand and offering affordable housing to those who need it. I wish more parishes would come forward to take the investment opportunities that we have within the Currency Fund and I look forward to hearing from future Constables with this in mind.

The Bailiff:

Deputy Rondel, do you wish a supplementary?

2.9.1 Deputy R.J. Rondel:

Yes, that leads me nicely to my next question. Basically, I would like to know who the scheme is available to. Is it available to all parishes and is it available to private developers or is it just parishes themselves? The money I believe is coming from the Currency Fund, as you mentioned. What is the amount of money that has to be left in the Currency Fund that cannot be used?

Deputy E.J. Noel:

I will deal with the last point first. The Currency Fund fluctuates with the amount of currency in circulation, but we believe that we have a little over £40 million to invest. We have earmarked £6 million for the Trinity project. We have already invested £10 million into Jersey, so there are substantial funds still available. They are available to all parishes and we will consider widening that out to other organisations but probably not the private sector.

2.9.2 Deputy M. Tadier:

First of all, I think this is a good use of money and I think this shows good joined-up working with parishes for the benefit of Islanders to move on capital projects. **[Approbation]** The question I would ask, especially following on from the last statement given, is that is there a joined-up policy when it comes to deciding which projects to fund? I give the example that my understanding was from a previous parish meeting in St. Brelade that our parish had approached the Treasury to fund building an extension of Maison St. Brelade, which was a significant capital investment project, only to be told that we could not borrow money off the States and we had to borrow money privately on what many parishioners or some parishioners considered to be a fairly punitive rate from a private landowner. Would it not have been better in that case for it to have been lent by the States, and what is the policy, is there a joined-up policy about all parishes being able to borrow money when it makes sense for both parishioners and the States?

Deputy E.J. Noel:

The Currency Fund is available to invest in infrastructure. The investment that the Deputy of St. Brelade mentioned, I did work very closely with the former Constable of St. Brelade to ensure that the parish had available to it funds from a private source, being a bank, at reduced rates, and that was backed by Treasury. I am not sure - for whatever reason - why that did not proceed. But if the Constable would like to come forward with a proposal to Treasury, then we will look at it.

The Bailiff:

Senator Ferguson, then a final question, Deputy Rondel.

2.9.3 Senator S.C. Ferguson:

What is the actual amount left in the Currency Fund? How much Jersey money do we have in circulation, and what are the requirements for the Currency Fund? I would be grateful for an answer.

Deputy E.J. Noel:

As I already mentioned, the amount in the Currency Fund fluctuates with the amount of currency in circulation. At its peak, which is around Christmas time, we have seen in high 90s of millions, not sure if we went over the £100 million mark. So it does vary. In the summertime, the amount in the fund goes down. Its lowest point over the last number of years, from recall, and I might need the officer to correct me, the lowest it has been in the last 10 years is around £60 million to £70 million. So we believe that we have a buffer of £40 million to invest. It is a sensible use of Island assets to improve in Island infrastructure.

Senator S.C. Ferguson:

The Assistant Minister for Treasury has not answered the question. I asked what at this point in time is the amount of money in the Currency Fund and the amount of money in circulation. Surely the accounting system can give ...

The Bailiff:

I think he said it fluctuates.

[11:00]

Deputy E.J. Noel:

I will liaise with Treasury officials and find out exactly at 11.00 a.m. on this Tuesday morning how much is the Currency Fund and I will report back to the Senator.

The Bailiff:

Very well. Do you wish a final question, Deputy Rondel?

Deputy R.J. Rondel:

I would just like to thank the Assistant Minister for his comprehensive explanation. There may be a few things I would like to ask him afterwards, if that would be okay, and ask whether I could perhaps register St. Helier in the scheme before every other parish jumps on the bandwagon. Thank you.

Deputy E.J. Noel:

I take the good Deputy's comments on board and I look forward to having a chat with him after.

The Bailiff:

We come next to a question which Deputy Trevor Pitman will ask of the President of the Scrutiny Chairman's Committee. Deputy Pitman.

2.10 Deputy T.M. Pitman of the President of the Chairman's Committee regarding an investigation by Scrutiny into the establishment of a media ombudsman:

Is the Chairman planning to pursue an investigation by Scrutiny into the establishment of an independent media ombudsman?

Deputy T.A. Vallois (President of the Chairman's Committee):

There is no current plan to pursue an investigation into the establishment of a media ombudsman, as current work programmes are full with regards to reviews with particular panels.

Deputy T.M. Pitman:

A supplementary, Sir?

The Bailiff:

Yes.

2.10.1 Deputy T.M. Pitman:

Credit should always be given where it is due, and this was the Chairman/President's own excellent idea. Given that the Press Complaints Commission in the U.K. was described only last year in the House of Commons as: "Well-meaning but a joke, and about as much use as a chocolate teapot" does she not feel that Jersey could really go with something independent to monitor the standards, basically to ensure that facts are given out rather than what would in the real world be described as lies, I suppose?

Deputy T.A. Vallois:

I never said that we do not need a media ombudsman. All I am stating is that Scrutiny does not currently have area within their work programmes to pursue an investigation. I would also say to the Deputy that there are plenty of officers within the Executive's department who could carry out this investigation, such as the Chief Minister's department, to look into whether a media ombudsman would be the appropriate way to go for the Island.

2.10.2 Deputy M. Tadier:

I am just trying to read between the lines. The Chairman tends to suggest that she is supportive or is not against the idea of an ombudsman for the media, and I appreciate also that Scrutiny is tight in terms of its manpower. If she were willing to find a Scrutiny Panel who would look into this issue, I am sure there would be States Members that are not currently on Scrutiny that could be co-opted to look into it and I am sure there would be a great take-up from the public, particularly those who live around Grosvenor Terrace area, to join in and make submissions. So will the Chairman consider at the next Chairman's meeting raising the issue of the media ombudsman, offering a Scrutiny review and offering for co-option to take place?

Deputy T.A. Vallois:

I am happy to place it on the agenda for the next Chairman's Committee for the Chairman to discuss. As the Deputy will know, there are no powers for me to make a Chairman review anything, but we can certainly discuss it and I can circulate the minutes from that discussion to everyone after, if the Members wish to see that.

The Bailiff:

Senator Ozouf and then a final question, Deputy Pitman.

2.10.3 Senator P.F.C. Ozouf:

Would the President agree that, notwithstanding her remarks, the world of media is changing beyond recognition and governments need to learn, and indeed, the other side of government, Scrutiny also needs to learn how we need to be better communicating with our constituents and those that we represent? New social media opportunities do give us as parliamentarians the ability to communicate directly with people, not through the filter, sometimes the commercial filter of news organisations, and does she think that perhaps in the light of this changing world that this might be a useful subject of not just simply the issue of an ombudsman, but a Scrutiny review within the not too distant future, there could be some useful research with bringing people in, giving evidence in a public way that perhaps might be able to help with this whole agenda?

Deputy T.A. Vallois:

That may possibly be the case, but as I stated, we are happy to discuss it at the next Chairman's Committee. I will place it on the agenda and I will take into consideration everyone's comments made today in the Assembly and it will be up to the relevant Chairman to decide whether they want to go ahead with reviewing...

Male Speaker:

Who is that?

Deputy T.A. Vallois:

Well, that is what we will have to find out. We will have to identify who the relevant Chairman will be first, obviously, and decide whether that would be the appropriate way to go. As I have already stated, our work programme is full with regards to the M.T.F.P. (Medium Term Financial Plan), Health White Paper, housing paper *et cetera*.

The Bailiff:

Yes, Deputy Pitman, do you wish a final question?

2.10.4 Deputy T.M. Pitman:

Absolutely, Sir, and I am happy to volunteer my time, not to chair it obviously. But Deputy Tadier touches on a very important issue, because normally in a larger community, a media organisation that was perhaps somewhere between the *Sunday Sport* and the *Völkischer Beobachter* from the 1930s would probably just fall by the wayside, but in Jersey we have at least one media outlet receiving the best part of £300,000 of the States money. As Deputy Tadier pointed out, that was the latest incident of a completely fictitious letter attacking politicians, a long chain of fictitious letters from people who do not exist. Why, the editor of that paper knocks back letters from real people, in fact, former election candidates. Given that huge amount of money that is given to the *Jersey Evening Post*, would the Chairman not at least consider that when she is having her discussions with her colleagues?

Deputy T.A. Vallois:

Yes.

The Bailiff:

Very well. We will come next to a question which Deputy Southern will ask of the Chief Minister.

2.11 Deputy G.P. Southern of the Chief Minister regarding the safeguarding of employment rights during the transfer of Connex employees to the new bus service provider CT Plus:

What action, if any, will the Council of Ministers take to ensure that the transfer of Connex employees to the new bus service provider, CT Plus, conforms with the principles expressed in the States Employment Board's comments on P.60 of 2012, Transfer of Undertakings (Protection of Employment) legislation, that a key aspect of any transfer should require the safeguarding of employment rights?

Senator I.J. Gorst (The Chief Minister):

This matter is rightly being dealt with by the Minister and Department for Transport and Technical Services, who are the regulators of the Island's bus service. The department is trying to resolve outstanding issues attached to the transfer of service and affected employees in tripartite meetings between Connex, the current provider of the bus service, and CT Plus, the preferred new provider. Meetings are also planned between CT Plus and the affected staff and Unite, the union, in time for the implementation date of 1st January next year. The intent of CT Plus is to employ all those employees that want to transfer to the new company on at least their existing terms and conditions of service at the time of tender. As a consequence, the Council of Ministers do not need to take any action in this matter at this time.

2.11.1 Deputy G.P. Southern:

If I may, does the Chief Minister not accept that the debacle that is happening to bus drivers clearly demonstrates the need for proper T.U.P.E. legislation to be in place to give appropriate powers to Ministers, and that the code of practice he has been working on with the States Employment Board will be inadequate to protect Jersey workers following transfer?

Senator I.J. Gorst:

No.

The Bailiff:

A final question, Deputy?

2.11.2 Deputy G.P. Southern:

I like that, quick. Funny, you can spend 10 minutes on a garden and 10 minutes on people's employment. Does the Minister accept that T.U.P.E.-style legislation must apply to public/private partnerships, all forms of outsourcing from the public sector and the incorporation, particularly in the case of the ports? Does he also accept that despite statements made earlier in this Assembly, no discussions with the ports' unions' representatives have been conducted over protection of terms and conditions? Lots of talk about: "This is how we are going to unite the management" but nothing about protection of terms and conditions, and what is he going to do to protect the terms and conditions of ports' workers from now on?

Senator I.J. Gorst:

My understanding does not agree with that just outlined by the Deputy. As far as I am aware, the ports are wishing to carry out transfers in line with T.U.P.E. protections, and the Deputy knows that I am committed to that. Where we disagree is the need for legislation in order to achieve that. I believe that the States Employment Board and States bodies have committed to that principle.

2.11.3 Deputy G.P. Southern:

As a supplementary, Sir. What actions will the Minister take to ensure that that commitment takes place, unlike with CT Plus?

Senator I.J. Gorst:

Once again, I do not agree with the Deputy's question. I believe that with the Transport and Technical Services, CT Plus and Connex, that is their aim and I hope that they will achieve it. I will certainly make inquiries. As I said, my understanding and the Deputy's do not agree with regard to harbours and airports but I will certainly make inquiries to ensure that my understanding is correct.

The Bailiff:

Very well. We come next to a question which Deputy Higgins will ask of the Chief Minister. Deputy Higgins.

2.12 Deputy M.R. Higgins of the Chief Minister regarding an extension of the time limit for the submission of applications under the Historic Abuse Redress Scheme:

Is the Chief Minister prepared to extend the time limit for the submission of applications under the Historic Abuse Redress Scheme until a week after the debate on P.80/2012, currently scheduled for 9th October 2012, and if not, why not?

Senator I.J. Gorst:

The Historic Abuse Redress Scheme was designed to provide an alternative method to full court proceedings. The scheme allows 6 months for the claimants to come forward and submit a claim. This timeframe was agreed with lawyers acting for all named claimants prior to establishment of the scheme. The scheme was well-publicised when it was launched and I am not aware of any reasonable justification for the time period to be extended beyond 30th September 2012. In the event that any applications are submitted after 30th September, they will be rejected, save where exceptional circumstances exist to justify them being allowed in. Any such applications would be considered on a case by case basis.

2.12.1 Deputy M.R. Higgins:

A supplementary, Sir. I must say, I find this totally unreasonable. I have brought a proposition to the States asking for the full details of the scheme to be discussed by this Assembly. I have concerns about the way part of the scheme has been implemented by States lawyers and other aspects of the scheme, and I think it is important this House hears all the evidence and makes a decision. I do not see any reason why the States Chief Minister, for example, should not allow anyone to bring in a claim at any time up until after the States has heard that proposition. I must also add that I am aware that according to Williamson's Report, he mentions in one particular sentence: "I would therefore recommend that in order to avoid confliction with the redress scheme and various ongoing police matters." There are at least 17 people who have named an individual who works in the Civil Service in this Island who has not been brought to book and certainly not been brought to a court to answer the charges that have been levelled against him. I think if you close off this scheme at the present time, you will deny people the right to get proper redress. Will the Minister reconsider and at least allow an extension until after the debate on 8th or 9th October?

Senator I.J. Gorst:

The Deputy has made various allegations in his arriving to his question. I believe that the scheme is clear, the scheme documents have been published and are available in the public domain. The Deputy has not, as far as I am aware, sought meetings with the scheme lawyers or brought forward particular cases that he is dissatisfied with. I am more than happy to meet with him if he has particular cases and parts of the process that he is not happy with but he has not made clear at all what they are or why the scheme should be extended. I, in my initial answer, was quite careful. If there is reasonable justification for it to be extended, then of course the Council of Ministers would

consider that. Outside of that, the scheme will close and claims will be rejected, as I said, save where exceptional circumstances exist to justify in them being allowed in. I believe that that delivers what the Deputy wants and the States will consider his proposition in due course.

2.12.2 Deputy T.M. Pitman:

I am glad Deputy Higgins raised what he did, because it means I will not be the only one getting into trouble. I raised this very serious issue at the meeting yesterday - as the Chief Minister will know - and I think it is important that the Assembly knows that it is not Deputy Higgins making these allegations, they are from 17 different people, some of whom have only been brought forward in comparatively recent times. So my question to the Chief Minister would be this: people have waited in some cases 60 years for justice. What difference does a couple of weeks make in delaying so we can hear this proposition? What difference does 2 weeks really make? Please answer that, Chief Minister.

Senator I.J. Gorst:

It has been quite clear from the start 6 months ago when the scheme would be closing. As I said, the scheme was set up in liaison with United Kingdom Q.C. (Queen's Counsel) advice in liaison with lawyers representing claimants, and that was right and proper.

[11:15]

If there are exceptional reasons that would justify it being kept open longer then, of course, I am prepared to listen to those but, so far, I have not heard them. The Deputy and the questioner seem to be conflating 2 issues. This is about the Historic Abuse Redress Scheme and they seem to keep referring to personal cases which do not relate to whether those claimants will be entitled to make a claim under this scheme and be entitled to compensation.

2.12.3 Deputy R.G. Le Hérisier:

In the event that the States were to accept Deputy Higgins' proposition, what would be the stand of the Chief Minister?

Senator I.J. Gorst:

I am not sure quite what the Deputy is asking me. If the States accept Deputy Higgins' proposition, then they accept it and the scheme comes forward for debate in this Assembly.

The Bailiff:

Do you have a final question, Deputy Higgins?

2.12.4 Deputy M.R. Higgins:

Yes, Sir. Has the Chief Minister not learned anything from the history of this whole child abuse scheme that the more the States will not be flexible, will not be open, the more people believe there is a cover-up? Basically, why not keep it open for a few weeks longer? It is not going to hurt; we have the debate, let us get everything out in the open and see if the scheme is acceptable. If it is, fine, we go forward then and then people can finally make their claims towards the States. But every time the States puts up barriers, you know: "Closing date 30th" and so on, people suspect there are things go on behind the scenes.

Senator I.J. Gorst:

With that logic, we would never close the scheme and the scheme would be running on indefinitely. I do not accept it; the scheme has now been open for 6 months. As I have said to the Deputy, if he has reasonable justification for asking me to keep it open then, of course, I will consider that. I have been what I believe is more than reasonable but so far, and certainly including in the Deputy's

proposition, there does not appear to me to be any reasonable grounds to do so. If the Deputy can come forward with reasonable grounds, then I will consider it.

Deputy M.R. Higgins:

If I can just say that the Chief Minister knows I do not like doing deals behind the scenes; let us get everything in the open in front of the States.

Senator I.J. Gorst:

There is no deal behind the scene and I really do not know what the Deputy is referring to. If he wishes to make a case for the scheme to be kept open, there must be reasonable grounds and he must come forward with them.

The Bailiff:

Very well. We come to the final question which Deputy Baudains will ask of the Minister for Transport and Technical Services.

2.13 Deputy G.C.L. Baudains of the Minister for Transport and Technical Services regarding the proposed new charging system for Sand Street car park:

With regard to the proposed new charging system for Sand Street Car Park, will the Minister explain exactly how the charges are to be levied and the cost involved in so doing, the benefit of running 2 different parking schemes simultaneously, and whether he foresees any problems arising from the use of the facility for hire cars, non-local vehicles and those with trade plates?

Deputy K.C. Lewis (The Minister for Transport and Technical Services):

This is really a 4-part question and I will do my best to answer in the time allowed. The new trial payment system registers a number plate and time of entry to the car park. On your return to the car having done your shopping, or whatever, you will go to the pay station, enter your registration number and the machine tells you how much you owe. You pay, rejoin your vehicle and leave the car park. You do not have to predict how long you want to stay. At the beginning of the trial, we will be taking on Advance to Work trainees to help explain the system at the pay station. Sand Street is a shoppers' car park and it is important that spaces for short-stay parking are always available. However, you will now be able to park for longer than 3 hours but the charging rates have been set to dissuade commuter and long-stay parking. Charges for the first 3 hours of parking will be as they are now, at one unit per hour, which is currently 71p. But if you stay longer, it is more expensive. For example, if you stay for a fourth hour, that extra hour would cost you 2 units, so you would be charged 5 units for 4 hours. The purchase and installation cost of hardware and software is £101,000 but there is a buy-back clause for hardware if it proves necessary at the end of the trial. The benefit of the trial is for us to gauge public perception, collect and analyse the data and find out if this technology is a suitable replacement for the pay card system in all our multi-storey car parks. We do not foresee any problems with hire cars and non-local vehicles, *et cetera*; as long as they have a number plate, the system will register them, and all pay stations will be multi-lingual.

The Bailiff:

Deputy, do you wish to have a supplementary?

2.13.1 Deputy G.C.L. Baudains:

I thank the Minister for his answer and, yes, I have read in the Consumer Council the way that it is supposed to work. It seems to me this new system may be appealing but there are a number of potential issues that have been overlooked. Is this not just swapping one problem for another:

worrying about overstaying your pay card will be replaced by having to go to a machine each time in order to pay? I ask the Minister, has he considered the danger involved in drivers wandering around the car park in order to pay their fees, whereas previously they just go straight to their vehicle, especially if they are accompanied by children?

Deputy K.C. Lewis:

No. When you drive into the car park, you leave your car there. The computer has registered your number plate and you would go off, do whatever you need to do in town, you will return and enter your number into the machine (which you will be doing at the entrance) and then you go and pick up your car. There are several ways of payment, of course: one can open an account or have cards that can be inserted into the machine. As I say, there will be people there to explain it for you. Obviously, at the start of any system there will be questions, but I do not foresee any problems.

2.13.2 Deputy M. Tadier:

Does the Minister acknowledge that demand and the dynamics of whether people want 3-hour parking for shopping or whether they want long-stay parking for work, *et cetera*, will depend on which day of the week it is? For example, one would expect fewer people to need to work at the weekends. Does he also accept that Sand Street will be used by workers who simply currently go back and change their pay cards every 3 hours, perhaps 2 or 3 times a day while they are at work? What steps does he anticipate taking if the demand is shown to be otherwise than what the department currently estimate it to be?

Deputy K.C. Lewis:

As I pointed out previously, we are trying to dissuade any long-stay parking. As I have already pointed out, one hour will be one unit, 2 hours will be 2 units, 3 hours 3 units, 4 hours will be 5 units and up to 5 hours will be 8 units. So that will dissuade anybody trying to use it as a long-stay car park. It will be beneficial to the public, in my opinion, to use this particular system as opposed to the old pay card system, as there will be no risk of getting a parking ticket on returning to your car, it would just be an extra unit or so. I should say that T.T.S. will be losing money on this project because no one will be receiving parking fines but, in my opinion, it is for the public good.

2.13.3 Deputy M. Tadier:

A supplementary, Sir. They will not be getting parking fines but they may get a bill for parking which is the equivalent of what a parking fine would be if they forget or are unaware that they left their car there. But the question is that there are people who use Sand Street Car Park for going to work because there are not necessarily sufficient spaces close enough to where they work. I note that also States Members also use Sand Street Car Park and they can park there as long as they like for free. So there is an issue that needs to be addressed there. Does the Minister accept that, given this fact, there will be an issue when those workers (who are probably many) using Sand Street Car Park who are currently are not being charged at what one would consider a punitive rate, do start getting charged a very high rate for paying to work? Does he anticipate a contingency for that backlash?

Deputy K.C. Lewis:

I am not anticipating people using it as a long-stay car park and paying the excess as there is Pier Road nearby, which will be charged at a standard rate. As I say, this is experimental and we will be exploring and examining all the data after several months.

2.13.4 Senator L.J. Farnham:

Yes, I applaud this initiative; the only criticism is it is long overdue. Would the Minister inform the Assembly whether there is a similar scheme to trial this with on-street parking and, if not, would he undertake to look into that?

Deputy K.C. Lewis:

We have looked into this and at this moment in time it would not be cost effective as you would need to have cameras on every street registering the data from all the vehicles, so that really would not be possible. But we are looking to roll this out to all of our multi-storey car parks should it prove successful.

2.13.5 Senator L.J. Farnham:

A supplementary, if I may, Sir? Would he consider then a slightly different scheme as run in many cities in Europe where a metre is provided at roadsides so motorists could park and pay for 2, 3 or 4 hours? I know it is still predictive parking, but I think it is much more appropriate than the pay card system.

Deputy K.C. Lewis:

I think we are just going to stick with this one for the time being. Obviously, we would like to keep to a cashless system for reasons of security but everything is on the table.

The Bailiff:

Do you wish to have a final question, Deputy Baudains?

2.13.6 Deputy G.C.L. Baudains:

Thank you, Sir. I believe I heard the Minister correctly when he said it was £100,000 for the trial. It does seem to be an expensive trial. He also, if I heard him correctly, presumes that a motorist returning to the car park to collect his car will go to a machine and type in a number, or something, and pay. That obviously presumes the driver knows the registration number of his car. I do not think there are many that do, so there will be people wandering round the car park. Previously, ensuring charges were paid was done by traffic wardens inspecting pay cards on display. I want the Minister to explain how compliance will be achieved in future. What happens if the machine get a number wrong (I know they do, from my experience in France) or someone drives out without paying, perhaps with an English number plate? In other words, how will this be policed and how much more is the policing going to cost than the present system?

Deputy K.C. Lewis:

When somebody buys a pre-payment card or pays, *et cetera*, the machine will show a picture, there is a montage there that will show a picture of your car, so you could recognise it. Alternatively, if you have a prepaid card, you can write your registration number on it and, if you have an account, then your registration will already be logged.

Deputy G.C.L. Baudains:

And the extra costs of the administration?

Deputy K.C. Lewis:

It will be minimal because we will not have to have so many wardens wandering around.

3. Questions to Ministers without notice - The Minister for Housing

The Bailiff:

That concludes questions on notice. Just before we come to questions without notice, I have received from Deputy Shona Pitman her resignation from the Public Accounts Committee and, therefore, in accordance with Standing Orders, I notify Members of that. We are about to come to questions without notice, and the first period is to the Minister for Housing; Members' lights are on already. Deputy Southern?

3.1 Deputy G.P. Southern:

What is the Minister's definition of "affordable housing", is it priced at 5, 7 or 9 times the average wage for one or 2 earners, or is it based on some other figure?

Deputy A.K.F. Green of St. Helier (The Minister for Housing):

That is a very good question for which I do not have a definite answer. One thing I do know is that the current ratios for many young couples are not affordable. When I purchased my own house, I think it was 3 times the annual salary, all my salary and part of my wife's I think. But that is something we are looking into at the moment. There is a lot of work going on and whether we can introduce a scheme such as the deposit scheme to bring affordability to people just below the line, we are working on that at the present time.

3.1.1 Deputy G.P. Southern:

A supplementary, if I may, Sir? Does the Minister recognise that £320,000 is 5 times? It is the low end of the multiplier, which used to be used 5 times average salary, and this makes all housing in Jersey just about unaffordable.

Deputy A.K.F. Green:

I do recognise that for many couples the dream of owning their own house is impossible. I would like to try and help to ease that for some couples by bringing in the deposit scheme that we are talking about. I met with the Minister for Treasury and Resources only last week. We are close to bringing in a deposit scheme whereby we are aiming at targeting it at people that would not qualify to borrow the full amount from the bank. Therefore, we are not subsidising the banks, but the aim is that the bank would provide 80 per cent we would provide 15 per cent in terms of the deposit, but I would still expect the couple to find 5 per cent. That will increase loans to people that are available to buy their homes. But it is a very difficult one, I understand that. But for some couples, of course, it will never be affordable.

[11:30]

3.2 Deputy T.M. Pitman:

I appreciate that the Minister cannot go into specific cases, but what I would like to ask him is, given the almost complete lack of regulation and indeed the absolute millions that housing trusts have been allowed to make from Jersey and the States, and the fact that they should have insurance policies, would he be willing to meet with me and perhaps use his influence to ensure that we do not see people who are very economically challenged being charged £500 to fix a door which these companies really should have taken care of themselves? Because I think it is a complete abuse of the position that they have been allowed to put themselves in.

Deputy A.K.F. Green:

2 points: yes, I will be quite happy to meet with the Deputy; it is a pity we did not meet before, we might have been able to bring some influence to help the family he is talking about. But as Members know, as part of the Housing Transformation Programme, I do intend to bring forward appropriate regulation that will apply to all housing trusts and the new housing association, if the States accept it.

3.3 The Connétable of St. John:

Over recent times the trustees for the Zion Chapel have been trying without success to get housing units or residential units within Zion Chapel. They have been thwarted because of S.S.I.s within the building, *et cetera*, with an organ being in place there and seating, *et cetera*. Would the Minister assist by putting pressure around the Council of Ministers' table on the Minister for Planning and Environment to list the S.S.I.s which are creating problems for the trustees and therefore allow this building to be used for housing purposes?

Deputy A.K.F. Green:

As the Constable notes, this is really a matter for the Minister for Planning and Environment, but if you were to ask my view, I would rather see a sympathetic housing development there along the lines that we see with some lesser stately homes in the U.K. than another derelict building such as we have in Route de Trodez in St. Ouen. I will speak to the Minister for Planning and Environment.

3.4 Deputy M. Tadier:

What does the Minister understand is a buy-as-you-rent scheme and will he give consideration to implementing one either at housing or in an arms-length scheme?

Deputy A.K.F. Green:

I wonder if the Deputy has been bugging my office, because it is something I have been talking about recently. There are a number of schemes that I would like to bring forward but, really, this is the role for the strategic housing unit: to bring forward a number of different schemes across different tenures to ensure the availability of housing both to rent and to buy. I would like to see a buy-to-rent scheme. As I understand it, the one that I was speaking to recently with the chairman of a trust in the U.K., the families put a very small deposit down when they moved in. It was understood that they rented for 5 years and that a huge proportion of that rent was the rest of their deposit enabling them to buy and get the title to the house. So yes, I am in favour of it. Of course, we have got to be very careful because I have come across with lots of well-intentioned schemes that will not work. That is why I need a strategic housing unit, I need expert advice, but I do want to see that sort of scheme in place.

3.4.1 Deputy M. Tadier:

Sir, just as a supplementary: would the Minister explain when we are likely to see a strategic housing unit being put in place, and why we cannot have these schemes up and running without the implementation of a strategic housing unit?

Deputy A.K.F. Green:

It is purely a matter of resources. The strategic housing unit will be put in place if the States accept the Transformation Programme. I have got one officer doing some of that work but, of course, there are huge amounts of work...

The Bailiff:

I am sorry, one moment, Deputy. If you leave, Deputy, we will be inquorate. Perhaps if you could just remain for the moment.

Deputy A.K.F. Green:

Of course, there is a huge amount of work at the moment with the Transformation Programme: over 58 different work streams that my officers and I are working on at the present time. If I am not careful, I am in danger of trying to do a little bit of everything and achieving nothing. The Housing

Transformation Programme is essential; the strategic housing unit comes from that, as does the regulation for the trust, as does the formation of the housing association, if the States accept it.

3.5 The Deputy of St. Peter:

Could the Minister inform the Assembly what research and community was carried out by his department when considering this year's increase in rent?

Deputy A.K.F. Green:

Increase in rent is always a difficult one. We based it on R.P.I. (Retail Price Index) (Y) in March this year. It is always difficult because some people might think: "Well, do not increase the rents. Try and do the popular thing." However, that is why we ended up with £80 million of outstanding maintenance. We were in that position about 3 years ago and I am working very hard with my officers to reduce it. I think Members have to accept that the Housing Department provides housing and Social Security provides the appropriate benefit to allow people to afford it if they cannot afford it. I must have the right income to carry out my part of the contract. If I have got the right income, such as we have seen in Pomme d'Or Farm where the buildings are properly maintained and residents do pay slightly higher rents, but if you ask the residents of Pomme d'Or Farm, they are paying slightly higher rents but they are spending considerably less on heating because they are now in a water and wind-tight building that is properly insulated. So that is part of my deal. It is always a very difficult one.

3.6 The Deputy of St. Peter:

Could the Minister inform us whether he spoke to the Minister for Social Security to find out what increase would be taking place for pensioners this year and to work out whether the 2 sums were equivalent?

Deputy A.K.F. Green:

My officers spoke with officers of Social Security to ensure that the increase in Social Security housing component mirrors the increase in rent for those that need it. I accept there are always people just above the line. Where do you set that line?

3.7 Deputy S. Pitman:

The Minister spoke in a previous answer to a question of regulations relating to housing trusts. Could he tell us when he envisages them being finalised?

Deputy A.K.F. Green:

Again, it is really a matter of... I have just finished the consultation, I am in the process of writing my report and proposition. I intend to take that to the Council of Ministers in November, lodge it in November, and then we will debate this in this Assembly in January.

3.8 Connétable D.J. Murphy of Grouville:

Some time ago I discussed with the Minister for Housing whether he would consider allowing lifetime tenancies on a leasehold basis for the private sector building homes for the elderly where they would be able to purchase a lifetime lease (which would obviously be a heavily discounted situation rather than buying a freehold) which would revert to the trust involved when they died. This would enable us to have pretty cheap housing and would probably be a very good investment for those trusts doing it. I just wonder in his very busy schedule whether he has had time to even consider it yet.

Deputy A.K.F. Green:

Yes, I have had time to consider it and I am told that it is legally possible even now in the form of some sort of lease. That said, however, I am looking at Lesquende phase 2. We hope to start work on Lesquende phase 1 in December... I think I am being a bit ambitious there, maybe January next year, which will be about providing social housing. But at Lesquende phase 2, I would like to see that, and we are looking at the development of homes there for people to purchase lifetime enjoyment, thus releasing some of the 3 and 4 bedroom homes in the private sector to couples hopefully being able to afford it, and getting some sort of mobility in the market. But it is very much an experiment and there is lots of work to be done. I have yet to consult with the economic adviser, I have yet to consult with the Law Officers, but it is certainly work in hand.

3.8.1 The Connétable of Grouville:

May I have a supplementary? Could he please also talk to the Planning Department, who have written to me saying it could not take place because of the restriction on the amount of capital a person would have before they purchased the lease?

Deputy A.K.F. Green:

Yes.

3.9 Deputy M. Tadier:

Given the Minister's intention to pursue price increases in rentals in his department, will the Minister use his influence as a Minister to encourage the States Employment Board to give a full cost of living award to public sector employees so that those who are in his housing can afford the increase in their rents?

Deputy A.K.F. Green:

I will use my influence to persuade the States Employment Board to make an offer that is appropriate given the circumstances of the economy.

3.9.1 Deputy M. Tadier:

Then a supplementary: presumably the circumstances of the economy include the fact that rents are both going up in the private sector and by the Housing Department, and that will be one of the considerations, no doubt, that the Minister will be making to the S.E.B. (States Employment Board).

Deputy A.K.F. Green:

There will be a number of considerations, but it has to be appropriate.

3.10 Deputy G.P. Southern:

The Minister has brought forward a device whereby photographs are taken in order to resolve disputes in rental deposits in the private sector. Would he consider involving States housing in that to avoid the arguments that sometimes take place over fair wear and tear and charges made to tenants?

Deputy A.K.F. Green:

That is a good question; I have not thought about it, but I would imagine, once I bring this law in, it will apply to all tenants. I would not imagine that the Housing Association, if the States accept it, would be exempt. The short answer is yes.

3.10.1 Deputy G.P. Southern:

In the meantime?

Deputy A.K.F. Green:

Give us time to do these very difficult tasks. We have got to have the Residential Tenancy Law first.

The Bailiff:

Does any other Member wish to ask a question of the Minister for Housing?

3.11 Deputy G.P. Southern:

Does the Minister accept that sometimes it is better to attempt to do many things and achieve maybe one of them than to do nothing and achieve nothing?

Deputy A.K.F. Green:

No, I do not. My experience is it is better to achieve major, fulfilling, purposeful change than run round like a headless chicken and achieve nothing. **[Approbation]**

3.12 Deputy S. Power of St. Brelade:

Would the Minister care to predict as to whether, in the 2 years remaining of this Assembly, that there may be any production of Homebuy mark 2, Homebuy mark 3, or any production of affordable housing?

Deputy A.K.F. Green:

Yes. I do not know what we will call it, but we definitely are working very hard at all levels with all my colleagues in the Council of Ministers to get different schemes in place. But fundamental to getting these schemes in place, if we are really going to see it driven, we need a strategic housing unit. We cannot do it without it; we have got to have a proper strategy for housing across the Island. At the moment, bits sit with Health, bits sit with Housing, bits sit with Population and bits sit with Planning. We need a proper strategic approach to this, and that is fundamental.

3.12.1 Deputy S. Power:

Following on from the Minister's reply to me, for which I am grateful, does the Minister feel that a strategic housing unit, as he has spelt out, should sit in the Chief Minister's office, or should it be with a housing tsar?

Deputy A.K.F. Green:

To answer the question very quickly, I think it should sit in the Chief Minister's office because I think we need something that is appropriate to Jersey but is also unfettered by operational conflict. So my view is that it should sit with the Chief Minister's office and that is also the view of Professor Christine Whitehead.

4. Questions to Ministers without notice - The Minister for Planning and Environment

The Bailiff:

Very well, all that brings questions to the Minister for Housing to an end. Before we move on to questions to the Minister for Planning and Environment, Mr Richard Collas, the Bailiff for Guernsey, is sitting in our Court of Appeal this week. He is taking time out from that and is presently in the gallery to see how we do things in the States. **[Approbation]** Very well, now we move on then to questions to the Minister for Planning and Environment. Deputy of St. Martin?

4.1 The Deputy of St. Martin:

Can the Minister appreciate the public's frustration and confusion with a planning system which allows one Methodist chapel to remove the pews and another not to?

Deputy R.C. Duhamel (The Minister for Planning and Environment):

I can imagine the public's confusion but then again we have an open planning process that allows the decisions to be fully explained as to how we arrive at them. I think on that basis the potential for misunderstanding is minimised.

4.1.1 The Deputy of St. Martin:

At a recent Planning Applications Panel meeting, my own Methodist Chapel in St. Martin thought they had, by working together with the panel and officers, found a commonsense solution to a problem of disabled access. Could the Minister explain his rationale behind reviewing this decision and delaying the project further and, more importantly, will he inform the Assembly how quickly he will announce his decision; a decision that could and should have been made quickly and easily many months ago?

[11:45]

Deputy R.C. Duhamel:

The protocol by which the Minister is responsible for the overview of any decisions that are being mooted to be undertaken by the Planning Application Panel is very clearly set out and agreed by this House. The way it stands at the moment is that any recommendations against officer advice are put to the Planning Applications Panel and the Planning Applications Panel comes up with an alternative point of view, the decision is not made by the Planning Applications Panel at that meeting. The issue goes on to the Minister to consider whether or not there is a serious misjudgement in terms of the advice being given by the officers, which would require changes to the Island Plan, whether or not there is a serious misinterpretation of those policies being put forward by the officers via the Planning Application Panel or, indeed, everything is tickety-boo and the application should go back to be ratified by the Planning Panel themselves or by the officers taking the decision. That is quite clearly understood and I think the suggestion that the Minister is interfering or delaying the process is fundamentally flawed, and the Deputy is mistaken in perhaps suggesting that that is the case. This Minister does not interfere with very many of the applications compared to previous incumbents of the office. The number of applications that I do review is very, very small. That in itself shows the level of confidence that I place within the Planning Applications Panel and, indeed, in the officers that are making the decisions which are delegated to them. I do not consider that in relation to...

The Bailiff:

I think, Minister, a fairly concise answer, if you would.

Deputy R.C. Duhamel:

One last thing, Sir. I do not consider that in relation to this particular application for the church access that the whole issue will be unduly delayed. I have made arrangements to visit with the Heritage officers, and a decision will be forthcoming within a very short period of time.

4.2 The Deputy G.P. Southern:

What do the indications of the 2012 Jersey population projections recently released have for the Department of the Environment and what, if any, limits does he see on the expansion of population?

Deputy R.C. Duhamel:

I think it is fundamentally right that the Minister for Planning and Environment should be severely worried if indeed the floodgates are going to be opened to immigration in order to achieve the economic growths that we all want to take place. Certainly, if that is the case to the levels that have been hinted at within the statistical work undertaken by the Department of Statistics, it does set up

very real challenges in terms of the amount of housing that we will require, the amount of infrastructure investment in the face of reduced capital funding that we have available and, indeed, the long-term prognosis for the orderly development of this Island.

4.2.1 The Deputy G.P. Southern:

Does the Minister have any particular limits, numbers set, on population growth?

Deputy R.C. Duhamel:

I think I am in accord at the moment with the directions and the decisions that were taken by this House a number of years ago where we suggested that the population should be fixed, limited to 100,000 as far as possible, and immigration policies designed to suit. That said, if indeed we do decide to break the banks and to allow the floodgates to open in terms of immigration, then the Minister for Planning and Environment will have to take all of these factors into account, as I have said, to provide for an orderly redevelopment of the Island if, indeed, that is what this House wishes.

4.3 Deputy S. Pinel of St. Clement:

I did not have time earlier to ask a question of the Minister. I share the concern of the Connétable of St. Peter over the delay in decision-making in the Department of the Environment and the consequent stifling of the construction industry. Any listing is onerous on property owners. My question is: who does the Minister think will pay for the upkeep of listed gardens?

Deputy R.C. Duhamel:

As I mentioned in my answers to the question previously, I do not think the 2 are that linked. It has been overstated, I think, by media misrepresentation that this Minister is suggesting that he comes forward with a new listed gardens policy which would seek to list tomato grow bags, window boxes or garden gnomes. That is not the case and, indeed, as I mentioned earlier, there are only around 35 gardens that are under consideration. That said, the number of those gardens that do achieve the recommendation by the officers for a formal listed designation will, I think, be significantly fewer than that number. I do not see that this work constrains the work in the building industry in any shape or form. I have to repeat, I am afraid, Sir, if I am allowed, that we do have at present nearly 1,500 dwellings which could be built. If we look at the applications that are being currently looked at by the department, they number about 450. 90 per cent of all of those are for minor works, and that is a reflection of the current economic recession. When people decide that they have got more money in their pockets, I think the development permissions that this department and the Minister have already given will be converted into real life dwellings, and that is something that is entirely out of my and the department's control.

4.4 Deputy J.M. Maçon of St. Saviour:

What priority is the Minister and the Department giving to the Affordable Housing Policy and when will it be presented to this Assembly?

Deputy R.C. Duhamel:

This House decided as far as the Island Plan, that it wanted the Minister for Planning and Environment to come forward with an H1 and H3 policy and, specifically, to come up with not only a definition of affordable homes that suited the pockets of the major number of our residents, but also to find a workable solution that would engage the private sector as well the public sector. That is what is being undertaken at the moment. The process of consultation in order to bring forward a supplementary planning guidance note to this House for proper debate to be agreed, before we move forward on whatever mechanism is going to be agreed upon, is under way. We reached a little hiccup a number of months ago where the Construction Forum decided that they did not

particularly agree with what had been previously put forward by my predecessors, and so other suggestions have been put to that body to comment upon. The process of consultation, or the second round process, has almost finished. Industry members have asked for a further 2 weeks to come up with their report. This is what I have done and I am expecting that report at the end of September. After that, it will go to the Council of Ministers for comment and then for a further short round of public consultation before a decision is taken and the documentation is brought by way of report and proposition to this House for all States Members to decide upon.

Deputy J.M. Maçon:

I wonder if the Minister could clarify, I could not quite catch it in his answer, but when does he intend this work should be presented to the Assembly?

Deputy R.C. Duhamel:

I had hoped to present it to the Assembly by the end of July but, because of the going round with a second round of consultations, that has taken slightly longer. So I am proposing to bring forward the supplementary guidance to this House before the end of the year and if I cannot make that deadline, then certainly by the very beginning of next year.

4.5 The Connétable of St. Peter:

The Minister for Planning and Environment has recently called in decisions made by the Planning Applications Panel. Can he advise us of the extent of his concerns and does he continue to have confidence in his panel?

Deputy R.C. Duhamel:

Sorry, could the Constable repeat the final ... does who have confidence?

The Connétable of St. Peter:

Sorry. I will read it again. The Minister for Planning and Environment has recently called in a number of decisions - I think possibly 7 - made by the Planning Applications Panel. Can he advise us of the extent of his concerns and does he continue to have confidence in his panel?

Deputy R.C. Duhamel:

As I mentioned earlier, I have full confidence in my panel and we have had recently a number of meetings to iron out any potential differences of opinion. But there is a protocol and the protocol must be followed, in my view, until other protocols are brought perhaps to take their place. But at the moment I do have the support of the panel and they have my support. The number of decisions that are made contrary to officer recommendation though is the key, if you like, or the trigger, to trip the referral back to the Minister to cast his eyes over. It is not a case of the Minister calling in applications and that is a fundamental misunderstanding on behalf of the Constable of St. Peter.

The Connétable of St. Peter:

Sir, if I may, another clarification? Therefore, listening to the Minister's answer to that question, what I have taken from his answer is that he does not think the panel should have the opportunity to challenge the officers' advice and make its own decisions?

Deputy R.C. Duhamel:

No, not at all, that function exists. In the 6 applications out of a very heavy schedule and agenda that the Planning Application Panel undertook fairly recently, 6 items were referred back to the Minister. Those 6 were deemed to be of a minor nature, although they were against officer recommendation, and they have been sent back to the Planning Applications Panel for ratification of that decision, against officer advice. So that shows that this type of decision-making can take

place by the panel, and does. One was a tied vote and automatically has to come to the Minister, another one was a decision taken by the Planning Applications Panel where they did not want to make the decision so it was referred back to me, and the final one was a question that has significant potential repercussions in terms of the historic advice and in terms of access at the St. Martins Methodist Church and that, as I said, is being undertaken to be reviewed by myself in as early a timeframe as possible.

4.6 The Connétable of St. John:

Given the Minister's comment at an earlier time that the Zion Chapel could be used as a theme pub or similar, will he review yet again lifting the S.S.I. on the interior of the building so that the pews and the organ *et cetera* can be removed, and also meet with the owners of the property, the trustees, and move forward so we do not have a derelict building left in the centre of the Island.

Deputy R.C. Duhamel:

This Minister has met with the trustees of the building, as was reported somewhat within the media, and I think the department officers and myself have forwarded some useful helpful advice over and above the very loose reported suggestion that it should only be considered as a theme pub, which has been taken completely out of context. There are a number of uses for that building and Members must not come to the conclusion that the planning process has forbidden any type of reuse of the Zion complex, which does not just consist of the main Methodist chapel, but also consists of the manse buildings and other buildings to the rear, which the department officers and the Minister have suggested to the trustees can be and should be converted into residential accommodation. The only matter of difference of opinion at the moment is the extent to which the interior fixtures and fittings, as seen in historic terms, are of benefit to the policies that we have got for historic buildings. As I have outlined on many occasions and have to reiterate, the fact that a building is listed for its architectural fixtures and fittings does not imply that those fittings could be removed. We have the listed status of the town church and we have undertaken just recently a refitting process which has removed all of the pews that were there and replaced them with chairs, but a more modern construction.

The Bailiff:

Minister, I am sorry, I am going to have to ask you to be a little bit more concise, if you would, because there are a number of Members who wish to ask questions.

Deputy R.C. Duhamel:

Sorry, Sir.

4.6.1 The Connétable of St. John:

A supplementary on that, Sir? Is the Minister aware how frustrated the trustees and the parish are over this entire... what I will call a fiasco? **[Approbation]**.

Deputy R.C. Duhamel:

Yes, I am. I can understand what appears to be frustration, but we are being told that the part of the exercise that is being entered into by the trustees at the moment is a testing ground exercise, if you like, as to the limit to which the Minister for Planning and Environment will go in order to allow the trustees to derive the maximum financial value so that the property can be passed on for further development by developers. That is not necessarily the best way to consider the benefits of any redevelopment of that particular place or any other.

The Bailiff:

I know there are other Members who wish to ask questions but I am advised that brings questions to the Minister for Planning and Environment to an end. **[Members: Oh!]** Minister, I think on a future occasion I shall be stricter on the length of your answers. **[Approval]**

[12:00]

I appreciate they are difficult concepts, but it is important as many Members as possible have the chance to ask questions.

Deputy R.C. Duhamel:

Or perhaps, Sir, equally, we might set Standing Orders aside and allow me double the time.

The Bailiff:

No. I think concise answers are a better solution. **[Laughter]** Very well...

Deputy T.A. Vallois:

Sir, could I seek leave of the Assembly to advise them of my intention in my capacity as Chairman of P.A.C. (Public Accounts Committee) please?

The Bailiff:

Yes.

Deputy T.A. Vallois:

Following the resignation of Deputy Pitman today, I will be seeking after lunch the approval of the Assembly to appoint Deputy Baudains as an elected Member on P.A.C. Members will be aware that there was an email asking if any other Members were interested in serving on P.A.C. a few weeks ago. This is only to provide notice to Members in case there are any other elected Members who wish to be nominated as an alternative.

PUBLIC BUSINESS

5. Draft Taxation (Miscellaneous Provisions) (Jersey) Regulation 201- (P.74/2012)

The Bailiff:

Then that concludes questions. There are no matters under J or K so we come to Public Business, and the first matter is the Draft Taxation (Miscellaneous Provisions) (Jersey) Regulations 201-, Projet 74, lodged by the Chief Minister, and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Taxation (Miscellaneous Provisions) (Jersey) Regulation. The States, in pursuance of Taxation Implementation (Jersey) Law 2004 and having regard to the various projets listed, has made the following regulation.

The Bailiff:

Chief Minister?

5.1 Senator I.J. Gorst (Chief Minister):

In October of last year, the Global Forum on Transparency and Exchange of Information for tax purposes adopted what is known as the combined phase 1 and phase 2 Peer Review. Unlike other jurisdictions, Jersey opted to be reviewed under that combined process. The result of that review was that of the 9 elements subject to review, 6 were considered to be in place, 3 were considered to be in place but we needed to put into force domestic legislation to reinforce our current processes. They said that our current processes worked and that we were responsive and co-operative but that

we should amend domestic legislation to ensure that that was written in statute so that we made our processes explicit to give effective access to relevant information. So it appears somewhat long and technical but, in actual fact, what this does is make changes across 3 pieces of legislation, and that is the Taxation United States of America (Jersey) Regulations 2006, Taxation Exchange of Information with Third Countries (Jersey) Regulation 2008, and Taxation Double Taxation (Jersey) Regulation 2010, giving effect to the same changes cross those 3 pieces of legislation. As I will come on to later, it also updates the list of T.I.E.A.s (Tax Information Exchange Agreement) and updates the list of D.T.A.s (Double Tax Agreement) as well. I think I will leave my opening remarks there and I will be in the hands of the Assembly as to how detailed or not they wish me to go into the regulations and schedules when we get there. But I maintain these changes.

The Bailiff:

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

5.1.1 Deputy M. Tadier:

I am not sure if now or later is the best time to do it, but I will raise it now and I am sure I will be told. Just in paragraph 3 when it is dealing with the changes, this is on page 7 to the Tax Information with the U.S.A. (United States of America); it says that information includes information within a person's knowledge as well as documents. Can the Chief Minister explain if that is a departure from what has currently been practised up until now, and what the implications are - if it is an addition - of that phrase: "Within a person's knowledge" as well as documents?

The Bailiff:

Does any Member wish to speak? I call on the Chief Minister to reply.

5.1.2 Senator I.J. Gorst:

This is a difficult area. We probably will come on to it, but it is a recognition that a person may, in fact, be aware of information or have information about their taxation affairs and they could be asked about that rather than just written documentation.

5.1.3 Deputy M. Tadier:

Can I seek further clarification? When he says a person may be asked about the knowledge of their affairs, presumably that is not just the individual whose tax affairs are in scrutiny, but it presumably relates to third parties (who are perhaps dealing with the taxation arrangements of that individual in a different country) could also be asked to give information within their knowledge, not simply documented information.

5.1.4 Senator I.J. Gorst:

That is my understanding: that third parties, who might hold information or might be aware of information... I am aware that these are quite technical legal and tax issues. I do not know if the Solicitor General wishes to add anything in answer to my response.

5.1.5 Mr. H. Sharp Q.C., H.M. Solicitor General:

Yes. Thank you. One of the purposes of these new amendments is to give full effect to the international obligations that Jersey has entered into. To give one example of those, the new 10(b) of the 2006 regulations will enable the Royal Court to take a statement or deposition from a witness so that they may, in addition to simply providing documents, speak to those documents and what that person knows about them.

The Bailiff:

Very well. All those in favour of adopting the principles, kindly show. The against the principles are adopted, unless, Senator Ferguson, this falls within the remit of your Scrutiny Panel?

Senator S.C. Ferguson:

No, we do not want to review it, Sir.

The Bailiff:

Very well. Chief Minister, how do you wish to proceed to propose the regulations?

Senator I.J. Gorst:

Sir, I am wondering if I could take them together. I suspect there might be other questions similar to Deputy Tadier's with regard to specific detail. As I said moving the principles, we have got the regulations, we have got schedule 1 that deals with the United States of America (Jersey) Regulations, schedule 2 gives effect to same changes with regard to T.I.E.A.s, schedule 3, the double taxation. Schedule 4, Members will see, updates the Tax Information Exchange Agreement list and schedule 5 adds in the D.T.A.s with Estonia, Hong Kong and Qatar. So I think it is probably better if Members have any detailed questions that we try to address those rather than me going into great detail about them.

The Bailiff:

So you propose all the regulations and the 5 schedules *en bloc*?

Senator I.J. Gorst:

Please, Sir.

The Bailiff:

Are they seconded. **[Seconded]** Does anyone wish to speak on any of the regulations or the schedules? Deputy Tadier.

5.1.6 Deputy M. Tadier:

Yes. Really to follow up: part of what I was trying to get at with the previous comment is to find out from the Chief Minister whether there has been any significant shift in the way in which information is exchanged, because I know that, clearly, depending on which countries we are dealing with there might be slight differences in what they demand and what we are able to deliver and *vice versa*. Will the Chief Minister explain whether there has been any shift in what we are passing here towards a more automatic information exchange type of scenario and, really, if there are any major changes in the way in which information needs to be given? I cited that example because it seems to me that there is a change purely from being paper-based information that individuals maybe sought to give, to being asked to volunteer information, it would seem, that they have within their knowledge but which is not necessarily traceable. Which would seem to suggest to me, perhaps incorrectly, that if an individual in a different country has information which they may believe, an individual is engaging in either evasion or perhaps aggressive tax avoidance (depending on what the individual country's laws are on that) they should be compelled to give that information. Is that a correct interpretation or, if not, is that something that the Minister is anticipating happening in the future? Could he just comment perhaps generally on whether he thinks it is a good thing that we would be moving unilaterally to more automatic types of information exchange on taxation and what the position of the Chief Minister is on that.

5.1.7 Senator P.F.C. Ozouf:

I realise sometimes the Assembly is confronted with very complex pieces of legislation that no doubt each Member might not have read every single paragraph. That is well understood by

Ministers and, I am sure, the Chief Minister. May I say that this is subject of a lot of internal scrutiny both within the Chief Minister's Department, the Law Officers and, indeed, the Treasury and Resources Department, particularly the Treasury Tax Policy Unit. This is a very complicated area and so, notwithstanding the relative speed of such important legislation, there is a lot of work that goes on. I just want to make that point to Members. The Chief Minister will, no doubt, answer Deputy Tadier's points, but if I may say just from a Treasury point of view - because this is very much a joint issue certainly in the implementation side of this - this is not a move to automatic information exchange. This will not be the last piece of legislation that comes before this Assembly on exchanging information and tax information exchange. The Deputy probably is thinking about F.A.T.C.A. (Foreign Account Tax Compliance Act) and some of the changes that are going to be made certainly from the United States and other areas. Indeed, this is an evolving issue as countries seek new standards and ever higher standards in terms of the way that they co-operate on tax. There are all sorts of new issues, mutual assistance and others, which will be debated at some point in parliaments and in this Assembly in subsequent years, but nothing is changing as far as automatic exchange is concerned in relation to these matters. It is probably also worth saying that Jersey is regarded as a leader in these matters. Jersey sits as a vice-chair on the group that oversee this and Jersey was one of the first jurisdictions to be assessed about how we are doing. Some of this is about implementing some of the findings of the review group that happened. Certainly, I hope those remarks are helpful for the Chief Minister.

The Bailiff:

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

5.1.8 Senator I.J. Gorst:

I thank the Minister for Treasury and Resources for his helpful comments. As I tried to say at the start, what is happening here is giving effect to processes that have been undertaken in the past but making them explicit in legislation. Of course, the Deputy did rightly point out the idea that information could be contained within a person and, therefore, as the Solicitor General said, if it was given in an interview or a deposition then it could be used as part of evidence there. So it is making that explicit. With regard to automatic exchange of information, as the Minister for Treasury and Resources said, obviously we, in due course and in very short order, are going to have to decide what our response is to F.A.T.C.A. and how we are going to deal with that on a government to government basis either along similar lines to that agreement signed by the United Kingdom or others or on similar lines to the approach that Switzerland has taken, and that will be a decision to be taken in due course. The Deputy is probably also aware of the O.E.C.D. (Organisation for Economic Co-operation and Development) programme to get automatic exchange as well and we will need to consider that in due course as well, albeit that many people who have signed up to that have taken reservations on automatic exchange. Perhaps I could thank my officers who have, I know, very kindly done worked-up copies of the changes of the 3 laws, which I hope that Members will have found helpful in understanding some of the technicalities involved. This is, I believe, going to mean that on those 3 recommendations, as I said at the start, rather than being in place but... we can see that they are all in place, once again as the forum said, showing and proving ourselves to be a co-operative and transparent jurisdiction engaging in appropriate information exchange where there are reasonable grounds to do so. I hope that Members will support these changes.

[12:15]

The Bailiff:

I put the Regulations...

Senator L.J. Farnham:

Can we have the appel, please?

The Bailiff:

The appel is called for. The vote is for or against Regulations 1 to 6 and Schedules 1 to 5. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 36	CONTRE: 0	ABSTAIN: 0
Senator P.F. Routier		
Senator P.F.C. Ozouf		
Senator A. Breckon		
Senator S.C. Ferguson		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator I.J. Gorst		
Senator L.J. Farnham		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Ouen		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisier (S)		
Deputy G.P. Southern (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy S.S.P.A. Power (B)		
Deputy M. Tadier (B)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy of St. John		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		

Do you propose the Regulations in Third Reading, Chief Minister?

Senator I.J. Gorst:

If I may, Sir, thank you.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak? I put the Regulations in Third Reading. Those Members in favour of adopting them kindly show? Those against? They are

adopted in Third Reading.

6. Draft Banking Business (Depositors Compensation) (Amendment and Miscellaneous Provision) (Jersey) Regulations 201- (P.78/2012)

The Bailiff:

The Assembly comes now to the Draft Banking Business (Depositors Compensation) (Amendment and Miscellaneous Provision) (Jersey) Regulations. I ask the Greffier to read the citation.

The Greffier of the States:

Draft Banking Business (Depositors Compensation) (Amendment and Miscellaneous Provision) (Jersey) Regulations. The States in pursuance of Article 37 of the Banking Business (Jersey) Law 1991 and Article 23 of the Public Finances (Jersey) Law 2005 have made the following Regulations.

6.1 Senator A.J.H. Maclean (The Minister for Economic Development):

P.78/2012 is the first of 4 amendments relating to the Jersey Bank (Depositors Compensation) Scheme or, as Members will know it, the D.C.S. The best protection for depositors with Jersey banks continues to be the proven strength and robustness of the Jersey banking sector. Members will be aware that unlike other jurisdictions Jersey did not have a single bank failure in the recent global financial crisis. However, we must never be complacent and as an extra protection for depositors and in line with international expectations and standards the D.C.S. was introduced in 2009. In the unlikely event of a Jersey bank failure in the future, the D.C.S. will pay out compensation to depositors quickly to prevent hardship resulting from a lack of access to funds. The D.C.S. was established by the Banking Business (Depositors Compensation) (Jersey) Regulations 2009, which I shall refer to as the principal D.C.S. Regulations for ease of reference. Now, this amendment, the first of 4, will amend the principal D.C.S. Regulations to introduce an annual D.C.S. administration levy on Jersey banks. When the D.C.S. was introduced, we agreed with and, therefore, accepted some of the helpful suggestions of the Economic Affairs Scrutiny Panel of the day. As a result of accepting the introduction of a standing board rather than a board that could spring into action upon a failure, my department undertook to fund the one-off set-up costs. We then investigated the introduction of an annual administration levy on banks to fund any recurring administrative costs in line with international standards. A proposal was worked up to introduce an annual administration levy on banks. This was consulted upon and no formal objections were received to the proposal. The Jersey Bankers Association has indicated general acceptance to the principle that the banking industry should fund the recurring costs of the D.C.S. The Jersey Banking Association has also assisted in making arrangements for the collection of the levy. A budget has been agreed which should be sufficient to provide for the recurring costs of the D.C.S. These include retaining the services of an outsourcer to be on standby to administer claims and membership of relevant international organisations such as the International Association of Deposit Insurers (I.A.D.I.). Membership of I.A.D.I. is considered to be particularly important as this is the body that sets international standards for deposit protection schemes against which the D.C.S. will be judged. It is also intended that the D.C.S. should be able to build up a modest contingency reserve over time which would be used to meet unexpected or asymmetrical costs. In the unlikely event that funding in excess of the capped amount is required there is provision for the cap to be raised so that a further round of administration levies can be raised in the same year if necessary. It should be noted that in the unlikely event of a bank failure, the administrative costs in relation to a bank default, which could be considerable for a large bank, would be met from the compensation levy on banks. That is rather than from the more modest administration levy to which I have referred. To be clear, the annual administration levy is only intended to fund the

recurring costs prior to activation of the D.C.S. In addition to the cap, other appropriate financial safeguards and governance arrangements are in place in relation to the annual administration levy specifically and the D.C.S. in general. The independent Jersey Bank Depositors Compensation Board, which will administer the D.C.S., will have to keep audited financial accounts and submit these to the States each year along with a report on its activities. The principal D.C.S. Regulations also require that the board and the scheme are administered in a prudent and economical manner and that the resources of the board are used efficiently and effectively. Furthermore, the Comptroller and Auditor General may also audit the D.C.S. board in accordance with the Public Finances legislation. I propose the principle of the Regulations.

The Bailiff:

Are the principles seconded? [**Seconded**] Does anyone wish to speak on the principles? Deputy Southern.

6.1.1 Deputy G.P. Southern:

What a joy it is to stand some years after putting in some work on scrutiny and have some recognition given to the positive way in which scrutiny can be used and was used in the old days when it was completely antagonistic and pointless. How joyful it is to receive that praise and realise that scrutiny has done something positive to add to a sensible way ahead on this particular issue. I particularly would like to thank the work of Deputy Higgins in making sure that when we produced our report it was to the point and effective.

6.1.2 Deputy J.M. Maçon:

As a former member of the Scrutiny Panel that looked at the Depositor Compensation Scheme, I echo Deputy Southern's comments with delight with how our amendment is now being welcomed when at the time there was a lot being resisted in our report. I am thankful for that as well as all the work that the department has done. I wonder if the Minister, though, could talk to us about the perceived cost that the ongoing running of this scheme will be. I have not picked that up in the Regulations. He also commented in his initial presentation that no formal objections were received by his department. I am wondering if the Minister could possibly inform us or give us an indication of how many informal objections he might have received during this time. I will leave it at that.

The Bailiff:

Does any other Member wish to speak on the principles? Deputy Higgins.

6.1.3 Deputy M.R. Higgins:

I will join in as well on this. I remember the debate very, very well and the criticisms that came towards us for wanting to have a standing board but I welcome the fact that the Minister did adopt it. It was a sensible decision and some of these amendments I am quite happy to support. What I will ask, though, is if the Minister can explain, that as we are now moving to having the administration levy and the board will be meeting more often, I am wondering about the compensation of board members and if he could tell us what the different board members are being paid now to manage the board. I have not seen any figures on that. It would be nice to have it out in the open if there any things in that regard. I welcome it. We should be taking precautions. I would also welcome, too, the fact that the board wants to be members of the International Association of Deposit Insurers. I will just remind Members that our expert adviser came from that body and a lot of his recommendations were not accepted but I hope now they will be accepted going forward and that the board will be the ones making the recommendations to the Minister.

6.1.4 Senator L.J. Farnham:

Given the fact that the States are likely to adopt this scheme, now does the Minister agree that it would make sense to urgently look to establish a financial ombudsman service? Could he comment as to the progress on that, please?

The Bailiff:

Does any other Member wish to speak? Yes, Deputy Tadier.

6.1.5 Deputy M. Tadier:

I understand that the level of levies and the way in which they will be collected are still yet to be decided, but will the Minister give an indication of what percentage the levies are likely to constitute? Will they be based on, for example, turnover of the different institutions or will they be based on profit? Presumably they will be done in a pro rata fashion. Can the Minister give any clarification as to that? Also, looking on page 17, there are talks about additional levies being applied if necessary. Could the Minister explain in what kind of circumstances banks are likely to face additional levies? Are there any mechanisms to make sure that there is at least some kind of consultation with banks? Because it could be seen as a mechanism by which funding is needed to be raised for a particular reason. What power would the banks have to feed back and deal with whether those levies are reasonable? I do have a more concrete question on page 16, just with an explanation of what is meant by 25(a) when it talks about the compensation levy which is applied if a bank becomes bankrupt. It says: "A bank that is not in default is liable to pay compensation levy in respect of the bank that is in default" and it gives the circumstances in which that applies. What is meant by that? Is it that a bank that goes into default or becomes potentially bankrupt there is a requirement for other banks to pay its levy while it is in default? I just need some more clarification as to what that means.

The Bailiff:

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

6.1.6 Senator A.J.H. Maclean:

I will start with thanking Deputy Southern. He is not here now but he made some observations which I thoroughly agree with. I think this was a good example of the executive and scrutiny working in a positive way. Recommendations were brought forward. They were not all accepted, but certainly quite a number were. I think that was positive and I think that was highlighted by Deputy Southern. Deputy Maçon, who was part of that process, also asked a question. I would also like to thank him for recently contacting the department with another query he had, which again I thought was very positive. I am pleased that he did contact the department and clearly he has been satisfied because he has not raised that particular issue, which is positive in itself. He raised the question about the cost of the administration. It has been assessed at £70,000 per annum and that is a sum that has been agreed by the Banking Association and that is the level that it has been set at. It works out to approximately £3,500 per banking group for the administration levy. With his slightly tongue in cheek other question about formal objections and informal objections, as I stated there have been no formal objections. I am not aware of any informal objections either but one can never be certain if any have been made. I certainly have not been made aware of any. I am pleased Deputy Higgins spoke. He clearly was Chairman of the Economic Affairs Scrutiny Panel at the time that this came forward to the Assembly in 2009. As I have already said, the panel made some very helpful suggestions, a number of which we have adopted and which Members will see form part of the scheme that is currently operating. Senator Farnham talked about financial ombudsmen. I think he is familiar with the timescales with regard to ombudsmen. They have been considered through time and, indeed, quite a bit of work has been done in that particular area, but I cannot give him any specifics above and beyond what has already previously been said in this Assembly. Deputy Tadier's questions regarding levies, I was not clear on what he was saying and

whether he was referring to the compensation levy or whether he was referring to the administration levy. I think hopefully I have clarified the point with regard to the administration levy. It is approximately £3,500 per banking group, which is a total cost of £70,000. There was also the question that he raised about costs and, indeed, I think he was driving at whether costs were going to be unreasonably levied against banks. There is, of course, an appeal process contained within the Regulations with the ability for the Minister to be appealed as well with regard to any proposed increases by the board. The compensation levy on page 16 that again Deputy Tadier was referring to, 25(a), I think he was alluding to the area where it talks about contributions from banks that are not in default. Yes, banks do contribute towards the cost of payment of any scheme, so that is exactly what would happen in the case of a default.

[12:30]

Those that are not in default contribute towards the payment of the depositors' refunds. I think that deals with all the questions and I would like...

Deputy M.R. Higgins:

Sorry, could I just ask the Minister to clarify one other point I did ask? The existing board I believe is not remunerated for their efforts. I am just wondering if anything has changed on that and whether they are now paid and, if so, how much.

Senator A.J.H. Maclean:

Yes, my apologies, I did forget that point. The Deputy is correct. The existing board are not remunerated currently save for costs which they can claim, but there is no standing rate. That would change, of course, in the case of a bank failure, which the Deputy is aware of. It would then be available to claim similar remuneration to that of similar bodies such as the J.F.S.C. (Jersey Financial Services Commission) which it was benchmarked against.

Deputy M. Tadier:

Could I just seek further clarification on a point which has already been covered?

The Bailiff:

Well, is it a point you raised?

Deputy M. Tadier:

Yes, it is a point I raised and the Minister has not answered it. It is to do with the compensation levy. He has covered the administration levy. My question was about how that would be raised because it seems that the administration levy is a flat rate and I am asking if the compensation levy will also be a flat rate. Because it seems to me that some banks are bigger than others, some are more profitable than others, and it is just to clarify whether the rate will be a flat rate or pro rata.

Senator A.J.H. Maclean:

The levy is worked out at 0.3 per cent. It is on a percentage basis. Hopefully that answers the Deputy's question.

Deputy M. Tadier:

Of turnover?

Senator A.J.H. Maclean:

I will just ask the Solicitor General to confirm that point.

6.1.7 The Solicitor General:

The answer is in Regulation 29 of the 2009 Regulations. It is based on eligible deposits.

The Bailiff:

Very well, all those in favour of adopting the principles kindly show? Those against? The principles are adopted. Deputy of St. Martin, do you wish this matter to be referred to the Economic Affairs Scrutiny Panel? **[Aside]** Very well, then how do you wish to propose the Regulations, Minister? Do you wish to take them *en bloc* or do you wish to take them in batches?

Senator A.J.H. Maclean:

No, I would like to propose them *en bloc*. I think I have covered in my introduction most of the key elements of the Regulations, so I propose them *en bloc*. I will be guided by the Assembly and if Members would like to ask questions on any particular Regulation I am happy to answer that.

The Bailiff:

Very well, so you propose Regulations 1 to 24. Is that seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? Deputy Higgins.

6.1.8 Deputy M.R. Higgins:

Just one reference, it is the reference on page 7 of the explanatory note. It mentions halfway down: "Regulation 25(c) provides that the annual administration levy is divided equally among the banks that have a current registration at any point in the year. The effect of Regulation 6 is that the group of banks pay the same annual administration levy as an ungrouped single bank." Why do we do that? Because some banks, the group may involve, say, 6 banks, let us say, and they will be paying the same rate as a single bank. It seems slightly inequitable. Why was that mechanism chosen?

The Bailiff:

Does any other Member wish to speak on the individual Regulations? Very well, then I invite the Minister to reply.

6.1.9 Senator A.J.H. Maclean:

I understand the point the Deputy has raised. It was, I understand, agreed with the Jersey Bankers Association that this was the most practical way of doing it. It avoided complex risk-weighting calculations and so on. So it was agreed with the Bankers Association that this particular calculation method was the one that they favoured.

The Bailiff:

Very well, all those in favour of adopting...

Deputy M. Tadier:

Can we have the appel, Sir?

The Bailiff:

The appel is called for then in relation to Regulations 1 to 24. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 44		CONTRE: 1		ABSTAIN: 0
Senator P.F.C. Ozouf		Deputy S. Pitman (H)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				

Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.G. Le Hérisier (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Bailiff:

Very well. Do you propose the Regulations in Third Reading, Minister?

Senator A.J.H. Maclean:

Yes.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak in Third Reading? Deputy Higgins.

6.1.10 Deputy M.R. Higgins:

Just to get on my hobbyhorse again, this is the one about amendments and regulations and so on and about the need for marked-up copies. It makes life that much easier. I know I have mentioned this to the Minister before and I think we have had undertakings in the past that when amendments came forward we would have marked-up copies, which makes it easier to see the changes that have gone in place. So I would ask the Minister again would he please give an undertaking that in future any amendments coming from his department will include marked-up copies of the amendments and regulations.

The Bailiff:

Does any other Member wish to speak in Third Reading? Then I invite the Minister to reply. I am so sorry, Senator Le Marquand, did you wish to speak in Third Reading?

6.1.11 Senator B.I. Le Marquand:

I wanted to respond to the comment made by Deputy Higgins there. This is quite a difficult area. I had a problem recently with a piece of legislation and, in fact, it does take a great deal of work to produce marked-up copies in the way suggested. It is a matter of judgment, I think, of a Minister in individual cases. I have always tried to produce something if I could, but it is not that easy when you have a large piece of legislation and you are producing amendments to it. I requested this on a previous occasion from the Law Draftsman who indicated that they could not do it without it really having repercussions in terms of other pieces of legislation. I would ask the Deputy, through the Chair, to bear in mind the resourcing implications of producing pieces of work of this nature.

Deputy M.R. Higgins:

Sir, is it possible for me just to comment on...

The Bailiff:

I fear not, no. This is...

Deputy M.R. Higgins:

Well, I think what it is, these are done as a matter of course. As the law is being developed, marked-up copies are given to the department. It is nothing special.

The Bailiff:

Minister, do you wish to reply?

6.1.12 Senator A.J.H. Maclean:

As a matter of fact, I do wish to reply. I would just like to say that we do always endeavour to please and on that basis many Members will be aware that we did circulate marked-up copies on Friday. So I am disappointed that Deputy Higgins did not receive a copy, but I will check into the reason why he did not and hopefully we will remedy that in the future. But all Members should have had marked-up copies at the end of last week.

The Bailiff:

Very well, all those in favour of adopting the Regulations in Third Reading kindly show? Those against? The Regulations are adopted in Third Reading.

7. Draft Banking (Depositors Compensation Supplementary Provisions) (Jersey) Regulations 201- (P.77/2012)

The Bailiff:

We come next to the Draft Banking (Depositors Compensation Supplementary Provisions) (Jersey) Regulations, Projet 77, lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Banking (Depositors Compensation Supplementary Provisions) (Jersey) Regulations. The States in pursuance of the Order in Council of 14th April 1884 have made the following Regulations.

7.1 Senator A.J.H. Maclean (The Minister for Economic Development):

This is, of course, the second of the 4 D.C.S.-related propositions. It will ensure that offences relating to the D.C.S. continue to remain in force. On the advice of the Law Officers' Department, the principal D.C.S. Regulations could not provide for offences because the enabling power under which they were made, namely Article 37 of the Banking Business (Jersey) Law 1991, was not sufficiently wide. Provision for offences relating to the D.C.S. was, therefore, made separately in triennial Regulations which were made at the same time as the D.C.S. Regulations. Such regulations only remain in force for 3 years and the triennial Regulations, therefore, need to be replaced before they expire in November of this year, 2012. These draft regulations will re-enact the provisions of the triennial Regulations and will remain in place for a further 3 years. No extra offences or penalties are being added from the original triennial Regulations. The opportunity, however, is being taken to rename the Regulations to avoid confusion with the principal D.C.S. Regulations. Meanwhile, the enabling power in the Banking Law will be amended by the third of these 4 propositions so that the provision for offences can be imported into the principal D.C.S. Regulations in due course. I propose the principle of the draft Regulations.

The Bailiff:

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

7.1.1 Senator L.J. Farnham:

I just wanted to ask what would happen in the very unlikely event that a bank refused to pay its levy.

The Bailiff:

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

7.1.2 Senator A.J.H. Maclean:

There is no circumstance under which a bank could refuse to pay the levy; otherwise it would go through the necessary procedures to recover the monies that were due under law.

The Bailiff:

All those in favour of adopting the principles of the Regulations kindly show? Those against? The principles are adopted. Deputy of St. Martin, I take it you do not wish this matter referred to your Scrutiny Panel. Then do you wish to propose the Regulations *en bloc*?

Senator A.J.H. Maclean:

Yes, *en bloc* and I am happy to answer any questions Members may have.

The Bailiff:

Very well. Are Regulations 1 to 5 seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? All those in favour of adopting Regulations 1 to 5 kindly show?

Those against? They are adopted. Do you propose them in Third Reading? Are they seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading kindly show? Those against? They are adopted.

8. Draft Banking Business (Amendment No. 8) (Jersey) Law 201- (P.76/2012)

The Bailiff:

We come next to the Draft Banking Business (Amendment No. 8) (Jersey) Law, Projet 76, lodged also by the Minister for Economic Development. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Banking Business (Amendment No. 8) (Jersey) Law, a law to amend further the Banking Business (Jersey) Law 1991. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

8.1 Senator A.J.H. Maclean (The Minister for Economic Development):

As I mentioned earlier, this amending law will broaden the scope of the enabling power, namely Article 37 of the Banking Law under which the principal D.C.S. Regulations were made so that these Regulations can provide for offences and a greater range of other matters in the future. Once the enabling power has been broadened, the offences that are provided for in the re-enacted triennial Regulations can be imported into the D.C.S. Regulations. This will consolidate the 2 sets of D.C.S.-related Regulations and will avoid the need to keep renewing triennial Regulations. In addition, in keeping with the current advice of the Law Draftsman's office and the Law Officers' Department with regard to regulation-making powers, the broadened enabling power will also set out in much greater detail the scope of what regulations made under it may provide for. Consequently, this amendment is very long because it sets out as broadly as possible everything that we might wish the principal D.C.S. Regulations to provide for in the future, including alternatives. However, this amendment does not make those changes directly. Further amendments to the principal D.C.S. Regulations would be required to make changes to the areas covered. We will lodge these substantive changes once this law is passed by the Privy Council and, therefore, I would ask that we debate what we choose to do at that time rather than now. I repeat that this is only in the main an enabling statute. The exception to this is that when this amending law comes into force it will directly place a duty on the liquidator of a failed bank to co-operate with the D.C.S. board so as to ensure that all compensation under the D.C.S. is paid out as soon as is possible. This change will take effect when the amending law comes into force and will not require further regulations. The Law Officers' Department have reviewed this amendment and have confirmed that the provisions are compliant with the European Convention on Human Rights. I propose the principles of the draft law.

The Bailiff:

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

8.1.1 Deputy J.H. Young of St. Brelade:

Just one question. Paragraph 20 of the report refers to the importance of the eventual rate of recovery in the event of any liquidation and it makes it clear that there should be no financial loss to creditors as long as the rate of recovery is sufficient. Of course, page 7 makes it plain that these distributions of sums recovered come after the expenses of the Viscount. I believe it is correct that in disaster recoveries the amounts that are taken by the Viscount for expenses are very substantial.

I would like to hear the Minister's response to that because I have a concern if the purpose of this were undermined by very high rates of charges in dealing with recoveries.

The Bailiff:

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

8.1.2 Senator A.J.H. Maclean:

The Deputy raises a very valid point and that is exactly why we are seeking to move to priority depositors in due course so that the likes of the Viscount and others would come after depositors. Indeed, I think that in due course will address the concern that the Deputy has raised. I would certainly hope, though, having said that, and as has been proven in the other instances elsewhere in the world where there have been bank failures, that depositors do tend to get the majority of their money back. Nevertheless, we have moved to address or are moving to address the concern that the Deputy has raised. I thank him for it.

The Bailiff:

Very well, all those in favour of adopting the principles kindly show? Those against? The principles are adopted. Deputy of St. Martin, do you wish this matter referred to your Scrutiny Panel? No. Then we come to the individual Articles, Articles 1 and 2. Do you propose them, Minister?

[12:45]

Senator A.J.H. Maclean:

En bloc, if I may.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on the individual Articles? All those in favour of adopting Articles 1 to 2 kindly show? Those against? They are adopted. Do you propose the Bill in Third Reading? Is it seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading kindly show? Those against? It is adopted in Third Reading.

9. Draft Bankruptcy (Désastre) (Amendment No. 6) (Jersey) Law 201- (P.79/2012)

The Bailiff:

We come finally to the Draft Bankruptcy (Désastre) (Amendment No. 6) (Jersey) Law, Projet 79, lodged by the same Minister. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Bankruptcy (Désastre) (Amendment No. 6) (Jersey) Law, a law to amend further the Bankruptcy (Désastre) (Jersey) Law 1990. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

9.1 Senator A.J.H. Maclean (The Minister for Economic Development):

I am sure this one will please Deputy Young who raised this very point a few moments ago. This draft law will amend the Bankruptcy (Désastre) (Jersey) Law 1990 to change the order of priority for bank insolvency. Following a bank failure, a liquidator will be appointed and will seek to realise assets of the bank in order to pay back the bank creditors. The order of priority is the order in which different types of creditor receive their recoveries from the liquidator. The draft law will make the D.C.S. a priority creditor so that in the unlikely event of a Jersey bank failure the D.C.S. would receive recoveries from the liquidator before any other unsecured creditor. This will help to

ensure that the D.C.S. can pay compensation to depositors as quickly as possible so that they do not suffer hardship from being cut off from their funds. The policy behind the proposal to introduce priority was set out in the public consultation carried out by my department in 2010 and no objections were received to the principle of protecting the amount of compensation to be paid under the D.C.S. scheme. Therefore, rather than giving priority to all depositors, the draft law will give priority to depositors' rights that have been vested in the D.C.S. Depositors must agree to do this when they submit a claim form. The D.C.S. then stands in the shoes of the depositors and is entitled to receive recoveries from the liquidator as a creditor of the failed bank. It is anticipated that the board will be the main creditor of the failed bank. Giving priority to depositors' rights that are vested in the D.C.S. is more effective than giving it directly to depositors themselves because the liquidator will only have to pay one creditor, the D.C.S., rather than potentially hundreds of thousands of individual creditors. The D.C.S. will be analysing lists of creditors from the word go while the liquidator is analysing the quantum of assets that can be recovered. Other jurisdictions have depositor priority, including Hong Kong, Malaysia, Australia, Switzerland, Russia and Argentina. Indeed, the U.K. had preferential rights to recoveries due to depositors but removed it, and now I understand the U.K. Government is proposing to reintroduce depositor priority as from 1st January 2019. Consultation took place with relevant departments as to the order of priority the draft law will give the payment due to the D.C.S. compared to debts due to other preferred creditors. The Treasury Department, Health and Social Services and the Viscount's Department support the proposed amendment. The reason for this support is the amount of priority will be limited to £50,000 of each depositor's rights that are vested in the board. The total amount that is entitled to priority will, therefore, be the same as the total amount of eligible deposits covered by the D.C.S. Because the amount of total eligible deposits in any one bank is relatively small compared to the total amount of deposits held by that bank, affording priority to the total amount of eligible deposits should not affect the amount of payments to other preferred creditors but simply the timing of these payments. It was also the case that payments due to other preferred creditors would take the liquidator some time to identify and to calculate. Unless the D.C.S. has priority over these other preferred creditors, this would delay the payment of recoveries to the D.C.S. and consequently the payment of compensation to depositors. The Law Officers' Department has reviewed the draft law and has confirmed that the provisions are compliant with the European Convention on Human Rights. I propose the principle of this draft law.

The Bailiff:

Is the principle seconded? [**Seconded**] Does any Member wish to speak on the principles? Deputy Southern.

Deputy G.P. Southern:

Again, I rise with a little smile on my face. I think I remember intense arguments around this particular point at the time and it is nice to see that the logical argument has been accepted.

9.1.1 Senator L.J. Farnham:

I wonder if the Minister could just share with the Assembly some clarity on the difference in this instance of secured and unsecured creditors. While one understands in normal business and personal terms what security is, he did state that the D.C.S. would receive preference as an unsecured creditor.

9.1.2 Deputy M.R. Higgins:

I welcome this amendment mainly because it was one of the things we were arguing for 4 years ago, so I am pleased it is finally coming to pass. I would, however, ask the Minister whether he has done any further research on the whole question of the Bankruptcy Law in relation to banking, especially when we bear in mind that all our banks are not registered... well, they are registered

within the Island but they are controlled from elsewhere. There are many, many problems involving bank failure and trying to get money across national boundaries and also liquidators claiming deposits. In other words, it could be withdrawn out of Jersey and taken somewhere else. So it is a minefield, this, and I would like to know what actions the department has taken to look at trying to clarify the legal position on this and to safeguard Jersey depositors.

9.1.3 Senator P.F.C. Ozouf:

I am pleased to follow Deputy Higgins on that because he is partly right when he says that this is a changing international tableau of new regulations and reform. Just as in the last legislation that the Assembly passed in relation to tax, banking regulation is also something that is going to be undergoing quite significant change, certainly within the U.K. and the Independent Commission on Banking (the Vickers Commission). So the Deputy is right that we need to keep ahead of the curve but we do need to understand these global forces that are going to change almost beyond recognition the banking world that we have known. The positive thing that I think I could say on behalf of the quad of Ministers that dealt with this is that, as the Deputy would expect, Ministers are ahead of the game on this and doing the research. In fact, the Minister and I both have a ministerial decision to sign this afternoon following consultation with the Council of Ministers on just doing some more research in relation to what that changing world of banking regulation is going to look like for Jersey. It is expensive research. We are going to be spending a lot of effort and time and money on that and going to be using some contingencies to that. But it is important, as I am sure the Deputy would agree, that we understand this changing world of regulations and that we use our very strongly held reputation to ensure that we get the very best regulations in Jersey, the best arrangements for depositors in the event of problems, and that we bring to the Island those really solid financial institutions - those perhaps solid financial institutions from the growing areas of the world - in increasing numbers to the Island for our financial services industry. I will just make one final point. I note the proposition does relate, of course, to the loan that the Treasury will make to the board in the event, unlikely event as the Minister says, of a collapse. We have not had a collapse and I hope we do not get one. I cannot help but notice that there has been some recent comment on the Treasury looking for some advice about how we use our balance sheet. One commentator in Jersey stated that indeed we were going broke because we were looking for potential ways to borrow money. For the avoidance of doubt, Jersey has 100 per cent of G.D.P. (Gross Domestic Product) asset on our balance sheet, unlike other countries that have 100 per cent debt. We intend to keep it that way. We think we have a triple A rated credit rating and where we can use that fantastic financial position for the benefit of Islanders we, of course, will do. Of course, in the event of a collapse we will be able to come up with that £100 million.

The Bailiff:

Does any other Member wish to speak on the principles? Deputy Maçon.

9.1.4 Deputy J.M. Maçon:

It does relate. The Minister mentioned that I did contact his department and it was regarding the process of potentially how the scheme would work. I do not know if Members are aware that under the original Regulations it does say the D.C.S. cannot process anything until they receive a valid application form, which then led to the question where is it, what is it, how does Joe Public access this? I did get in contact with officers last night and they did produce one for me, which I am very grateful to see that that work has been done. However, I note that that still is not on the D.C.S. website. In other words, the general public would not be able to access that in the event that that should happen. While I appreciate that department is also working on changes in this area, until that time I wonder whether the Minister could give an undertaking that that simple application form will be uploaded to the website just for the sense of the process and everything being there.

9.1.5 Senator B.I. Le Marquand:

I rise to try to assist the Minister in dealing with the questions in relation to priority. If a bank becomes insolvent, then either it is going to end up in a désastre or it is going to end up in a liquidation. In either event, there may first of all be secured claims. Examples of that would include mortgages on the bank's property. It might include security interests in relation to shares, things of that nature. So there is a variety of different secured interests that might exist. What then happens after that is there will be expenses incurred either by the Viscount or by the liquidator in collecting in the money. Those then rank next and that is clear from the paperwork that we have. The effect of this is that the next thing to rank in order after those things will be any sums which the board has already paid out to people who held accounts with the bank and which they can now seek to recover. That is the effect of this and that is the order of priorities. I hope that assists the Assembly.

The Bailiff:

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

9.1.6 Senator A.J.H. Maclean:

I will attempt to answer Members' questions. First of all, I would like to note that I am delighted that I seem to have made Deputy Southern so happy today. It is always a pleasure to see him smiling rather than growling from the other side of the Assembly. **[Laughter]** Perhaps Deputy Higgins, too, who is laughing away. In all seriousness, it is, as I have already stated, a very positive factor that executive and scrutiny have worked constructively together in many respects in the best interests of the Island to deliver what I believe is a very good depositor compensation scheme, one that is evolving and will continue to evolve as international standards change and the international situation changes. Senator Farnham asked about secured and unsecured. Secured creditors have a charge over bank assets - that is the key point - and, of course, unsecured do not. Deputy Higgins raised a valid point about effectively cross border insolvencies. It is a difficult issue, we accept that. The matter needs to be continually reviewed. I think that our relationship and membership of I.A.D.I. to which the Deputy is familiar will help us understand what other jurisdictions are doing and how, indeed, we can seek to address such matters. It is an issue and we will always seek to try and keep abreast of it as best we can. Deputy Maçon asked about the application form. The Deputy may be familiar with the fact that it is, in fact, international practice that application forms are not typically made available until a failure occurs. I will raise this particular point. I understand the sensitivity of it but typically, if he reviews other D.C.S.s in other jurisdictions, they do not make those forms available until such time. Finally, I would like to just thank ministerial colleagues who today have provided some very welcome support and I would like to thank them for that. I maintain the regulations.

Senator L.J. Farnham:

May I just have a very brief point of clarification to be absolutely clear? I understand security, but am I right in saying that secured creditors would take preference over the scheme? For example, if bank A lent bank B £100 million and secured it against the assets, bank A would then take priority over the D.C.S.

Senator A.J.H. Maclean:

I am not sure the example as such is that good. Secured creditors would come first and...

The Bailiff:

They would come first presumably in relation to their security.

Senator A.J.H. Maclean:

Exactly.

The Bailiff:

But not otherwise. Very well, all those in favour of adopting the principles kindly show? Those against? The principles are adopted. Deputy of St. Martin, do you wish this matter to be referred to your Scrutiny Panel? Deputy, if you would not mind standing when you address the Chair.

The Deputy of St. Martin:

Sorry. No, thank you, Sir.

The Bailiff:

Very well. Do you propose, Minister, Articles 1 and 2 together?

Senator A.J.H. Maclean:

Yes, thank you.

[13:00]

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Articles? All those in favour of adopting Articles 1 and 2 kindly show? Those against? They are adopted. Do you propose the Bill in Third Reading?

Senator A.J.H. Maclean:

Yes.

The Bailiff:

Are they seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in...

Connetable of St. John:

Can we have the appel, please, Sir?

The Bailiff:

The appel is called for in relation to the Bill in Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 48		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				

Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

So we come finally then to arrangement of public business unless, Deputy Vallois, do you wish to raise your point?

Deputy T.A. Vallois:

Yes, please. I would like to ask the Assembly whether I would be able to nominate Deputy Baudains to serve as an elected member on the Public Accounts Committee going forward.

The Bailiff:

Is that nomination seconded? **[Seconded]** Are there any other nominations for the position? Very well, then I declare that Deputy Baudains is elected as a member of the Public Accounts Committee. **[Approbation]**

ADJOURNMENT

The Bailiff:

Very well, the session will now close. The Assembly is adjourned until 9th October 2012.

[13:02]