

# STATES OF JERSEY

## OFFICIAL REPORT

TUESDAY, 17th JUNE 2014

<b>COMMUNICATIONS BY THE PRESIDING OFFICER .....</b>	<b>8</b>
1.1 Welcome to His Excellency The Lieutenant Governor .....	8
The Bailiff: .....	8
1.2 Greffier of the States – congratulations upon recognition in H.M. The Queen’s Birthday Honours .....	8
The Bailiff: .....	8
<b>QUESTIONS.....</b>	<b>8</b>
<b>2. Written Questions .....</b>	<b>8</b>
2.1 DEPUTY J.A. MARTIN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING FREE PRESCRIPTIONS: .....	8
2.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE COMITÉ DES CONNÉTABLES REGARDING PARISH WELFARE PAYMENT IN THE LAST WHOLE YEAR THAT SYSTEM EXISTED: .....	9
2.3 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING FACILITIES FOR STATES MEMBERS: .....	9
2.4 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE J.T. FIBRE BROADBAND SERVICE: .....	10
2.5 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING A REVIEW BY THE REGULATOR OF J.T.s PROPOSED PRICE INCREASES: .....	12
2.6 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR SOCIAL SECURITY REGARDING INCOME SUPPORT PAYMENTS: .....	12
2.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING DATA PROTECTION SUBJECT ACCESS REQUESTS MADE TO THE STATES OF JERSEY POLICE: .....	13
2.8 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING APPLICATIONS FOR REGISTRATION CARDS UNDER THE NEW CONTROL OF HOUSING AND WORK (JERSEY) LAW 2012: .....	15
2.9 THE DEPUTY OF GROUVILLE OF THE MINISTER FOR SOCIAL SECURITY REGARDING SICKNESS BENEFIT ENTITLEMENT: .....	18
2.1 SENATOR S.C. FERGUSON OF THE CHIEF MINISTER REGARDING MINISTERIAL DECISIONS IN 2014: .....	20
2.11 SENATOR S.C. FERGUSON OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING MINISTERIAL DECISION IN 2014: .....	22

2.12	DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING VISITS TO SECONDARY SCHOOLS BY STATES MEMBERS: .....	25
2.13	DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING UNOCCUPIED PROPERTIES IN THE ISLAND: .....	29
2.14	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE DEFINITIONS USED TO ASSESS ALLEGATIONS OF ABUSE: .....	29
2.15	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE INCLUSION OF STATES-FUNDED FOSTER HOMES UNDER THE HISTORIC ABUSE REDRESS SCHEME: .....	31
2.16	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE NUMBER OF CASES OF SEXUAL ABUSE REPORTED TO THE CHILDREN’S SERVICE SINCE 1995: .....	31
2.17	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE LOSS OF TAX FROM THE ZERO/TEN REGIME: .....	33
2.18	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING STATUTORY REDUNDANCY PAYMENTS: .....	34
2.19	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDIN THE GATEWAY TO SOCIAL HOUSING: .....	35
<b>3.</b>	<b>Oral Questions.....</b>	<b>35</b>
3.1	Deputy R.G. Le Hérissier of St. Saviour of the Chief Minister regarding the number of Serious Case Reviews initiated or completed in the last 2 years: .....	35
	Senator P.F. Routier (Assistant Chief Minister - rapporteur): .....	36
3.1.1	Deputy R.G. Le Hérissier: .....	36
3.1.2	Deputy M.R. Higgins of St. Helier: .....	36
3.1.3	Deputy J.A. Hilton of St. Helier: .....	36
3.1.4	Deputy J.G. Reed of St. Ouen: .....	37
3.1.5	The Deputy of St. Ouen: .....	37
3.1.6	Deputy R.G. Le Hérissier: .....	37
3.2	Connétable P.J. Rondel of St. John of the Assistant Chief Minister regarding the number of applications for registration cards under the Control of Housing and Work Law: .....	38
	Senator P.F. Routier (Assistant Chief Minister - rapporteur): .....	38
3.2.1	The Connétable of St. John: .....	38
3.2.2	Deputy G.P. Southern of St. Helier: .....	39
3.2.3	Deputy J.H. Young of St. Brelade: .....	40
3.2.4	The Connétable of St. John: .....	40
3.2.5	The Connétable of St. John: .....	40
3.3	Deputy G.C.L. Baudains of St. Clement of the Minister for Transport and Technical Services regarding the present roadworks at the Dicq: .....	41
	Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services): .....	41
3.3.1	Deputy G.C.L. Baudains: .....	41
3.3.2	Senator S.C. Ferguson: .....	41
3.3.3	Senator L.J. Farnham: .....	41
3.3.4	Senator L.J. Farnham: .....	42
3.3.5	Deputy G.C.L. Baudains: .....	42

3.4	Deputy S. Power of St. Brelade of the Minister for Home Affairs regarding the investigation into the fire at the former Plémont holiday camp on 4th January 2014: ....	42
	Senator B.I. Le Marquand (The Minister for Home Affairs): .....	43
3.4.1	Deputy S. Power:.....	43
3.4.2	Deputy G.C.L. Baudains:.....	43
3.4.3	Deputy S. Power:.....	43
3.5	Deputy G.P. Southern of the Minister for Social Security regarding the delivery of insolvency benefit to support those made redundant as a result of insolvency proceedings: .....	44
	Senator F. du H. Le Gresley (The Minister for Social Security): .....	44
3.5.1	Deputy G.P. Southern:.....	44
3.5.2	Deputy G.P. Southern:.....	44
3.6	Deputy S.Y. Mézec of St. Helier of the Chief Minister regarding the cessation of the prosecution role of the Attorney General and the establishment of a separate prosecution service:.....	45
	Senator I.J. Gorst (The Chief Minister): .....	45
3.6.1	Deputy S.Y. Mézec:.....	45
3.6.2	Deputy S.Y. Mézec:.....	45
3.7	Connétable D.W. Mezbourian of St. Lawrence of the Minister for Health and Social Services regarding travel subsidies or supplements available from Health and Social services for people with medical conditions who can no longer drive:.....	46
	Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):.....	46
3.7.1	The Connétable of St. Lawrence: .....	46
3.7.2	Deputy M. Tadier of St. Brelade: .....	46
3.8	Deputy M.R. Higgins of the Minister for Home Affairs regarding the States of Jersey Police internet investigations into cyber bullying complaints: .....	47
	Senator B.I. Le Marquand (The Minister for Home Affairs): .....	47
3.8.1	Deputy M.R. Higgins:.....	47
3.8.2	Deputy M.R. Higgins:.....	48
3.9	Senator S.C. Ferguson of the Minister for Planning and Environment regarding efforts to deal with Japanese Knotweed: .....	49
	Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment): .....	49
3.9.1	Senator S.C. Ferguson: .....	49
3.9.2	Deputy G.C.L. Baudains:.....	50
3.9.3	Deputy J.H. Young: .....	50
3.9.4	Senator S.C. Ferguson: .....	50
3.9.5	Senator S.C. Ferguson: .....	51
3.10	Deputy M. Tadier of the Minister for Social Security regarding changes to the Social security contributions cap to fund maternity leave: .....	51
	Senator F. du H. Le Gresley (The Minister for Social Security): .....	51
3.10.1	Deputy M. Tadier: .....	51
3.10.2	Deputy J.H. Young:.....	52
3.10.3	Deputy S.Y. Mézec:.....	52
3.10.4	Deputy M. Tadier: .....	52
3.11	Deputy C.F. Labey of Grouville of the Minister for Transport and Technical Services regarding the retirement age for bus drivers:.....	53
	Deputy K.C. Lewis (The Minister for Transport and Technical Services):.....	53
3.12	Deputy S.Y. Mézec of the Minister for Home Affairs regarding the handling of offenders with mental illness and drug dependency:.....	53
	Senator B.I. Le Marquand (The Minister for Home Affairs): .....	53

3.12.1	Deputy S.Y. Mézec:	53
3.12.2	Deputy M.R. Higgins:	54
3.12.3	Deputy R.G. Le Hérissier:	54
3.12.4	Deputy S.Y. Mézec:	55
3.13	Deputy G.C.L. Baudains of the Minister for Economic Development regarding the number of foot and vehicle passengers using Condor's Weymouth service in a full year:	55
	Senator A.J.H. Maclean (The Minister for Economic Development):	55
3.13.1	Deputy G.C.L. Baudains:	55
3.13.2	Deputy R.G. Le Hérissier:	55
3.13.3	Deputy G.C.L. Baudains:	56
3.14	The Connétable of St. John of the Minister for Economic Development regarding funding of the Jersey International Motoring Festival:	56
	Senator A.J.H. Maclean (The Minister for Economic Development):	56
3.14.1	The Connétable of St. John:	57
3.14.2	The Connétable of St. John:	57
3.15	Senator S.C. Ferguson of the H.M. Attorney General regarding the reimbursement of those defrauded by the principals in the Sunstone and De Lec case:	58
	Mr. T.J. Le Cocq Q.C., H.M. Attorney General:	58
3.15.1	Senator S.C. Ferguson:	58
3.15.2	Deputy J.H. Young:	58
3.16	Deputy R.G. Le Hérissier of the Chairman of the Privileges and Procedures Committee regarding the credibility of the referendum proposed for October 2014:	59
	Deputy J.M. Maçon of St. Saviour (Chairman, Privileges and Procedures Committee):	59
3.16.1	Deputy R.G. Le Hérissier:	59
3.16.2	Deputy S.Y. Mézec:	59
3.16.3	Senator I.J. Gorst:	59
3.16.4	Connétable J. Gallichan of St. Mary:	60
3.16.5	Deputy R.G. Le Hérissier:	60
3.16.6	Deputy R.G. Le Hérissier:	60
3.17	Deputy M.R. Higgins of the Minister for Home affairs regarding the investigation of cases of alleged child abuse and child protection issues by the States of Jersey Police:	61
	Senator B.I. Le Marquand (The Minister for Home Affairs):	61
3.17.1	Deputy M.R. Higgins:	61
3.17.2	Deputy M.R. Higgins:	61
3.17.3	Deputy R.G. Le Hérissier:	62
3.17.4	Deputy R.G. Le Hérissier:	62
3.17.5	Deputy M.R. Higgins:	62
3.18	Deputy M. Tadier of the Chairman of the Education and Home Affairs Scrutiny Panel regarding the establishment of a Dog Warden role and the introduction of on-the-spot fines for fouling:	63
	Connétable S.W. Pallett of St. Brelade (Chairman, Education and Home Affairs Scrutiny Panel):	63
3.18.1	Deputy M. Tadier:	63
3.18.2	Deputy S. Power:	63
3.18.3	Deputy R.G. Le Hérissier:	63
3.18.4	Senator L.J. Farnham:	64
3.18.5	Deputy M. Tadier:	64
3.19	Deputy S. Power of the Minister for Economic Development regarding the contractual agreement with Condor:	64

Senator A.J.H. Maclean (The Minister for Economic Development):.....	64
3.19.1 Deputy S. Power:.....	65
3.19.2 Senator L.J. Farnham:.....	65
3.19.3 Deputy S. Power:.....	66
3.20 Deputy G.P. Southern of the Minister for Social Security regarding the provision of sufficient financial support for carers:.....	66
Senator F. du H. Le Gresley (The Minister for Social Security): .....	66
3.20.1 Deputy G.P. Southern:.....	66
3.20.2 Deputy G.P. Southern:.....	67
<b>4. Questions to Ministers without notice - The Minister for Health and Social Services</b>	<b>67</b>
4.1 Deputy M.R. Higgins:.....	68
The Deputy of Trinity (The Minister for Health and Social Services):.....	68
4.1.1 Deputy M.R. Higgins:.....	68
4.2 Deputy M. Tadier: .....	68
4.3 Deputy S. Pinel of St. Clement: .....	69
4.4 Deputy J.A. Hilton:.....	69
4.4.1 Deputy J.A. Hilton:.....	70
4.5 Deputy R.G. Le Hérissier: .....	70
4.6 Senator S.C. Ferguson: .....	71
4.7 The Connétable of St. Lawrence: .....	71
4.8 Deputy J.H. Young: .....	71
4.9 The Deputy of St. Ouen: .....	72
4.9.1 The Deputy of St. Ouen:.....	72
4.10 The Deputy of Grouville:.....	72
<b>5. Questions to Ministers without notice - The Minister for Economic Development.....</b>	<b>73</b>
5.1 Senator L.J. Farnham:.....	73
Senator A.J.H. Maclean (The Minister for Economic Development):.....	73
5.2 Deputy G.C.L. Baudains:.....	73
5.3 Deputy T.A. Vallois of St. Saviour: .....	73
5.4 Deputy R.G. Le Hérissier: .....	74
5.4.1 Deputy R.G. Le Hérissier: .....	74
5.5 Deputy S. Power:.....	74
5.6 Deputy S.G. Luce of St. Martin: .....	75
5.6.1 The Deputy of St. Martin: .....	75
5.7 The Connétable of St. Brelade: .....	75
5.8 Connétable M.J. Paddock of St. Ouen:.....	76
5.9 Deputy J.H. Young: .....	76
5.10 Senator L.J. Farnham:.....	76
5.11 The Connétable of St. John:.....	77
<b>PUBLIC BUSINESS .....</b>	<b>77</b>
<b>6. Draft Community Provisions (Goods Suspected of Infringing Intellectual Property Rights) (Jersey) Regulations 201- (P.64/2014).....</b>	<b>78</b>
6.1 Senator B.I. Le Marquand (The Minister for Home Affairs): .....	78
6.1.1 Deputy J.H. Young: .....	79
6.1.2 Deputy M.R. Higgins:.....	80
6.1.3 Senator B.I. Le Marquand:.....	80

<b>7. Draft Rehabilitation of Offenders (Exceptions) (Amendment) (Jersey) Regulations 201- (P.65/2014)</b> .....	<b>82</b>
7.1 Senator B.I. Le Marquand (The Minister for Home Affairs): .....	82
7.1.1 Deputy M.R. Higgins:.....	83
7.1.2 Senator B.I. Le Marquand:.....	83
7.2 Senator B.I. Le Marquand:.....	83
<b>LUNCHEON ADJOURNMENT PROPOSED</b> .....	<b>85</b>
<b>LUNCHEON ADJOURNMENT</b> .....	<b>86</b>
<b>8. Ratification of the Agreement between the Government of the United States of America and the Government of Jersey to improve international tax compliance and to implement F.A.T.C.A. (P.68/2014)</b> .....	<b>86</b>
8.1 Senator I.J. Gorst (The Chief Minister):.....	86
8.1.1 Deputy G.C.L. Baudains:.....	88
8.1.2 Senator I.J. Gorst:.....	88
<b>9. Draft Taxation (Implementation) (International Tax Compliance) (United States of America) (Jersey) Regulations (P.69/2014)</b> .....	<b>89</b>
9.1 Senator I.J. Gorst (The Chief Minister):.....	90
<b>10. Ratification of the Agreement between the Government of the United Kingdom and Northern Ireland and the Government of Jersey to improve international tax compliance (P.66/2014)</b> .....	<b>91</b>
10.1 Senator I.J. Gorst (The Chief Minister):.....	91
10.1.1 Deputy J.H. Young:.....	92
10.1.2 Deputy J.A.N. Le Fondré:.....	93
10.1.3 Senator I.J. Gorst:.....	93
<b>11. Draft Taxation (Implementation) (International Tax Compliance) (United Kingdom) (Jersey) Regulations 201- (P.67/2014)</b> .....	<b>95</b>
11.1 Senator I.J. Gorst (The Chief Minister):.....	95
11.2 Senator I.J. Gorst:.....	95
11.3 Senator I.J. Gorst:.....	95
<b>11.4 Draft Taxation (Implementation) (International Tax Compliance) (United Kingdom) (Jersey) Regulations 201- (P.67/2014): amendment (P.67/2014 Amd.)</b> .....	<b>96</b>
11.4.1 Senator P.M. Bailhache: .....	96
11.4.2 Deputy R.G. Le Hérissier: .....	100
11.4.3 Senator I.J. Gorst:.....	100
11.4.4 The Deputy of St. Ouen:.....	103
11.4.5 Deputy J.A. Martin of St. Helier: .....	103
11.4.6 Deputy R.G. Le Hérissier: .....	104
11.4.7 Deputy G.P. Southern:.....	105
11.4.8 The Deputy of St. Martin:.....	106
11.4.9 Senator L.J. Farnham:.....	106
11.4.10 Deputy M. Tadier:.....	107
11.4.11 The Connétable of St. John: .....	108
Senator P.M. Bailhache: .....	109

<b>11.5 Draft Taxation (Implementation) (International Tax Compliance) (United Kingdom) (Jersey) Regulations 201- (P.67/2014) - resumption.....</b>	<b>111</b>
11.5.1 Senator P.F.C. Ozouf: .....	111
11.5.2 Senator I.J. Gorst:.....	112
11.6 Senator I.J. Gorst:.....	112
11.7 Senator I.J. Gorst:.....	113
11.7.1 The Connétable of St. John:.....	113
11.7.2 Senator P.F.C. Ozouf:.....	113
11.7.3 Deputy S. Power:.....	114
11.7.4 Deputy M.R. Higgins:.....	114
11.7.5 Senator L.J. Farnham:.....	114
11.7.6 Deputy J.H. Young:.....	114
11.7.7 Deputy M. Tadier:.....	115
11.7.8 The Connétable of St. Lawrence:.....	115
11.7.9 Senator I.J. Gorst:.....	115
<b>12. Draft Income Support (Special Payments) (Long-Term Care) (Jersey) Regulations 201- (P.70/2014).....</b>	<b>117</b>
12.1 Senator F. Du H. Le Gresley (The Minister for Social Security): .....	117
12.1.1 Deputy J.H. Young:.....	120
12.1.2 Deputy G.C.L. Baudains:.....	121
12.1.3 The Deputy of St. Martin:.....	121
12.1.4 Senator A. Breckon: .....	121
12.1.5 Senator F. Du H. Le Gresley:.....	122
<b>13. Draft Income Support (Amendment No. 11) (Jersey) Regulations 201- (P.71/2014).124</b>	
13.1 Senator F. du H. Le Gresley (The Minister for Social Security): .....	125
<b>ADJOURNMENT.....</b>	<b>128</b>

[9:31]

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

## **COMMUNICATIONS BY THE PRESIDING OFFICER**

### **1.1 Welcome to His Excellency The Lieutenant Governor**

#### **The Bailiff:**

Those who had the pleasure of attending the levée at Government House on Friday will know what a splendid occasion it was and how much thought and preparation must have gone into it. I take great pleasure today in not only welcoming His Excellency but also thanking him and Lady McColl for a splendid occasion. **[Approbation]**

### **1.2 Greffier of the States – congratulations upon recognition in H.M. The Queen’s Birthday Honours**

#### **The Bailiff:**

One of the great pleasures of the levee is that His Excellency announces the names of those who have been awarded an honour in the Queen’s Birthday Honours. I am sure Members will wish to join with me in saying how pleased we were that the exceptional and dedicated service of our Greffier who is so highly regarded not only in the Island but outside the Island has been recognised by this really well deserved award of an O.B.E. (Order of the British Empire). **[Approbation]** Very well, there are no other matters under A.

## **QUESTIONS**

### **2. Written Questions**

#### **2.1 DEPUTY J.A. MARTIN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING FREE PRESCRIPTIONS:**

##### **Question**

Following the decision in February 2008 to provide free prescriptions to Islanders, would the Minister advise -

- (a) how many prescriptions were issued the 5 years before that date by year;
- (b) how many prescriptions have been issued since they became free by year up to the last full year’s figures available?

##### **Answer**

The table below shows the number of prescribed items that were dispensed by year, from 2003 to 2013

<b>Year</b>	<b>Number of Items prescribed</b>
2003	1,111,262
2004	1,164,037
2005	1,219,363



2006	1,251,616
2007	1,324,335
2008	1,489,319
2009	1,590,227
2010	1,651,355
2011	1,707,644
2012	1,784,798
2013	1,846,713

In addition to the decision to provide free prescriptions from February 2008, changes were also made in late 2007 to expand the list of drugs available through the Health Insurance Fund, to include drugs previously only available from the hospital pharmacy. This increased the number of drugs prescribed as drugs which were previously provided by specialists at the hospital were able to be prescribed by GPs for repeat prescription.

**2.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE COMITÉ DES CONNÉTABLES REGARDING PARISH WELFARE PAYMENT IN THE LAST WHOLE YEAR THAT SYSTEM EXISTED:**

**Question**

Would the Chairman advise how much, approximately, was distributed by parishes in welfare payments in the last whole year that system existed?

**Answer**

The information is contained in the statement about the Island wide rate 2006 which was made to the States by the Chairman of the Comité des Connétables on 21 June 2006.

In that statement the Chairman reported that the figures received from Parishes showed that £3,323,934 was spent on welfare and £5,492,516 on residential care for the year ending 30 April 2006; so a total of £8,816,450.

**2.3 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING FACILITIES FOR STATES MEMBERS:**

**Question**

Does the Chairman consider that the lack of proper parking facilities for States members is a disgrace and that the discontinuation of food at lunchtime was a retrograde step and, if so, would he advise whether his Committee has any plans to resolve these issues?

**Answer**

Despite the States decision to cease the use of Snow Hill car park for members I am not aware that there is a lack of proper parking facilities as parking is available in two other public car parks for members when on States business. I am aware that a number of members would like to see the reinstatement of States members' lunches on States days but I would remind members that they were stopped as a result of a vote in the Assembly.

The Committee has no plans to propose any changes to the parking provision or to introduce lunches at the present time but would welcome members' views on both of these matters.

**2.4 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE J.T. FIBRE BROADBAND SERVICE:**

**Question**

Would the Minister, as the shareholder representative, advise how many JT customers were on the 2MB service at the end of May 2014, and, of those scheduled to be compulsorily moved to the more expensive 50MB service, how many are on fibre?

Should any still be on copper, would the Minister confirm that they too will also receive 50MB at the higher price, or will they remain on the cheaper 2MB service?

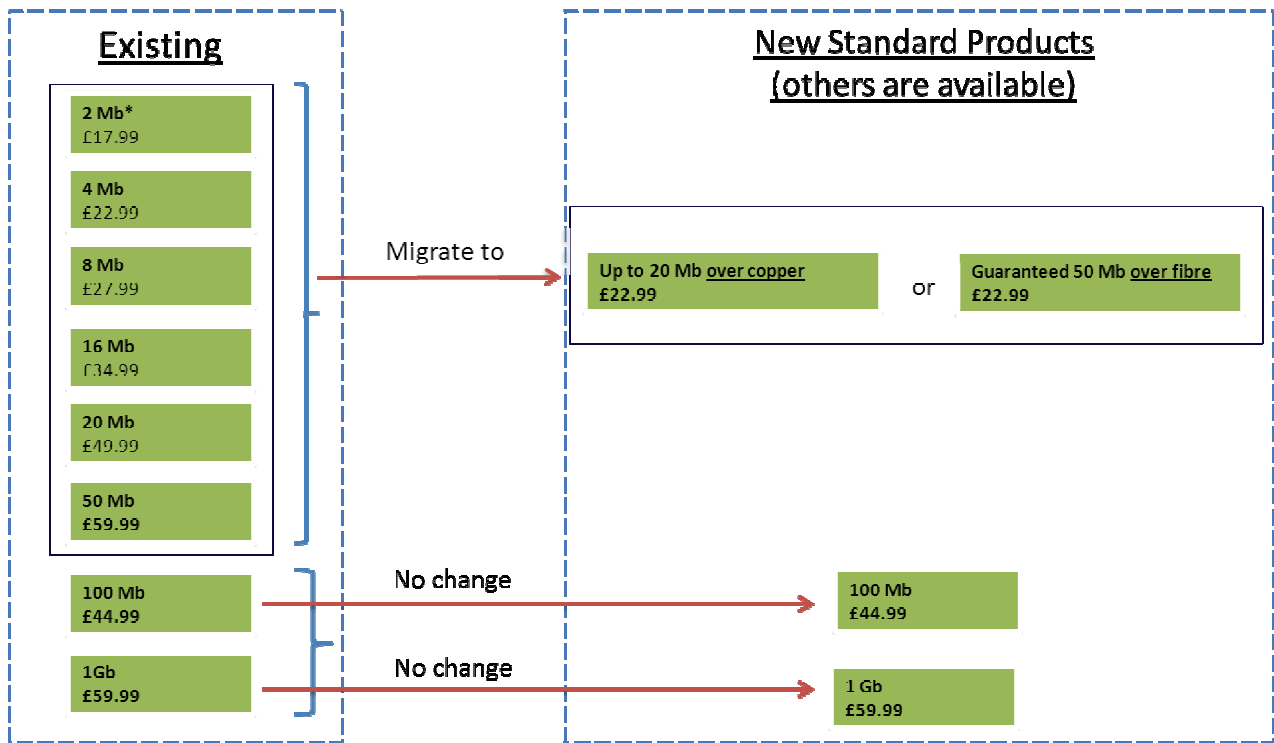
**Answer**

JT has submitted that the number of JT customers on specific tariffs, or on copper as opposed to fibre service, remains confidential during the course of the CICRA review.

The reason for the information being commercially sensitive is the fact that Jersey's broadband market is heavily competed for by the seven different network providers (JT Fixed, JT Mobile, Sure Fixed, Sure Mobile, Airtel Mobile, Newtel Fixed and Ytel Mobile) and highly regulated by CICRA, which regularly receives commercially sensitive market data of this nature.

In regard to the second part of the question, as explained in the Minister's response to the recent oral question from the Deputy on this subject (3 June 2014), the 2MB service is being withdrawn and JT is moving to a more simple tariff structure where the subscriber receives the maximum possible speed of "up to 20 MB" if they are on a copper connection or a guaranteed minimum speed of 50MB if they are on a fibre service.

The following diagram provides an overview of the changes to JT's retail portfolio:



In making these changes, JT is responding to calls from market and industry commentators to move to an “up to” standard of service for its copper products, such as those available in Guernsey. But it is important to note that copper broadband is a far inferior product to fibre broadband, as many factors such as the length of the copper line or inclement weather conditions (heavy rain, lightning storms) significantly impact copper services (they do not impact fibre network services), all of which means speeds over copper networks can never be guaranteed.

Following the implementation of the updated package, the comparison with Guernsey will look as follows:

JT (Jersey)		Sure (Guernsey)	
Up to 20Mb	£22.99	Up to 16Mb	£24.99
Guaranteed 50Mb	£22.99	Up to 40Mb	£34.99
Guaranteed 100Mb	£44.99	Guaranteed 100Mb	No products over “up to” 40Mb
Guaranteed 1Gb	£59.99	Guaranteed 1Gb	

**Points to note:**

1. There are no fibre broadband products available in Guernsey which means that no speeds can be guaranteed
2. Speeds In Jersey are +20% of those In Guernsey and no equivalent above “up to” 40Mb is available
3. Where comparable products exist, charges In Jersey are between -8% and -34% of those In Guernsey

\* To ensure the fair treatment of those subscribers on a 2MB service, JT is currently running an offer to maintain the 2MB price for a further 18 months, but will provide the increased speeds

during that period. For those wishing to remain on a 2MB service, JT will be offering a £17.99 offering over its mobile network.

## **2.5 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING A REVIEW BY THE REGULATOR OF J.T.s PROPOSED PRICE INCREASES:**

### **Question**

Does the Minister consider that moving Jersey Telecom customers to a higher tariff compulsorily, whether or not they need or want it, amounts to a price increase (in the order of 28 per cent) and, if so, could he advise whether the Regulator is looking into this matter and, if not, why not?

### **Answer**

On 6th June JT formally notified the JCRA of changes to its retail broadband products. The changes mean that customers who are currently on JT's 2 Mb/s product at £17.99 would be migrated to the new standard product of up to 20Mb/s on copper or up to 50Mb/s on fibre at the higher price of £22.99 per month. For these customers this does represent a price increase of approximately 28 per cent.

JT has offered existing customers on the 2Mb/s service a promotion to fix their monthly rental to £17.99 a month for the next 18 months. However, the regulator has advised customers to carefully consider the implications of signing up to this offer as, after the eighteen month period, the price will automatically revert to £22.99 per month.

It should be noted that while some customers will experience an increase in price, other customers could see a material reduction in the price they pay or a significant increase in the maximum broadband speeds they receive. Therefore, customers should consider the options available to them from JT and from alternative providers and make an informed decision on that basis.

My Department is committed to protecting the interests of Jersey users of telecommunications services. I believe it is important that there is a suitable entry level broadband product so that digital services are accessible and affordable to all.

Broadband pricing is a matter for the regulator which is an independent body that helps ensure consumers receive choice and access to high quality services. The JCRA is currently investigating a series of practices by JT which the regulator believes might damage competition in the broadband market leading to reduced choice and value for money for consumers in the longer term.

In announcing this investigation the JCRA cited the 2Mb/s broadband product as the most urgent area of concern.

The JCRA is likely to require further evidence before it can presume that JT's behaviour contravenes either regulatory law or competition law. The JCRA is obliged to go through the appropriate process for carrying out its functions as required by law.

## **2.6 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR SOCIAL SECURITY REGARDING INCOME SUPPORT PAYMENTS:**

## Question

Would the Minister advise approximately how much his Department has paid out in each of the first five years of Income Support?

## Answer

This information is provided in the States accounts that are published annually.

	2008	2009	2010	2011	2012	2013
Total	74,055,946	83,296,411	84,873,741	87,332,192	91,194,817	92,070,157

Income Support started on 28th January 2008, therefore figures for 2008 also include benefits paid under predecessor schemes during January.

The benefits replaced in 2008 by Income Support included:

- Adult Disablement Allowance (ADA)
- Attendance Allowance (AA)
- Child Disablement Allowance (CDA)
- Childcare Allowance
- Educational Maintenance Allowance
- Disability Transport Allowance (DTA)
- Family Allowance
- Health Insurance Exception (HIE)
- Home Study Grant
- Parish Welfare
- Rent Abatement
- Rent Rebate
- School-Age Discount Scheme
- Welfare Milk

The income support law provides weekly support and one off payments to a wide range of local residents and families including care home residents, pensioners, people with disabilities, families with children, low income working families and jobseekers.

The total cost of benefits provided under income support has increased by 24% since its introduction in 2008. The increasing cost reflects the response of the government to the difficult economic conditions experienced during this period and the additional assistance needed to support low income individuals and families. The increase of just under 1% between 2012 and 2013 indicates the positive impact of the back to work scheme as well as the general slow improvement in the wider economy.

## **2.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING DATA PROTECTION SUBJECT ACCESS REQUESTS MADE TO THE STATES OF JERSEY POLICE:**

## Question

Will the Minister set out for members -

- (a) the number of subject access requests made to the States of Jersey Police under the Data Protection (Jersey) Law 2005 for each year since 2008 together with details of how many were completed within the 40 day period stated in Article 7(11) of the Law, how many are still outstanding and the period of time they have been outstanding;
- (b) set out the number of requests seeking for information which have been refused each year in the period prescribed in (a) and the grounds for refusal;
- (c) set out the number of requests to rectify inaccurate data held by the Police for each year since 2008 together with details of how long it took for the information to be rectified or, if the information was not rectified, the reasons for not doing so?

## Answer

- a) The States of Jersey Police have had 7594 subject access requests since 2008.

2008	1028 requests
2009	1232 requests
2010	1338 requests
2011	1174 requests
2012	1149 requests
2013	1211 requests
2014	462 requests to date

The States Police do not keep a central register of the timescales within which these have been answered.

To answer this part of the question would require each request to be checked individually.

There are currently five SAR's outstanding:

The earliest is from 2012 and is under discussion with the Data Protection Commissioner. One is from December 2013 for which a number of disclosures have been made, however, the request remains live due to ongoing clarifications of what is required by the data subject. Three that are current and within the 40 day limit.

- b) The States Police do not centrally keep figures for whether full or partial disclosures are made or the grounds for disclosure/non-disclosure. Those persons affected would have the option of

complaining to the Data Protection Commissioner if they were unhappy with the States Police response. The Data Protection Commissioner may then direct the States Police to review the case.

- c) The States Police do not keep a central register of requests for inaccurate data to be rectified. With the written permission of the data subject they can check individual files.

Subject access requests to the States Police can pose difficulties and delays may be experienced for a number of valid reasons including:-

1. The difficulty in actually finding the relevant information in a case in which the range of the requests is wide.
2. The exemption which exists in relation to criminal investigations. Although such an investigation may not currently be active, if further information arises then the investigation may need to be re-opened.
3. The need to protect the anonymity of third parties such as witnesses, with a requirement to first seek their consent to disclosure and, in appropriate cases, to redact the information held.
4. Difficulties may also arise in relation to requests to correct information held in circumstances in which the applicant disagrees with information held in the form of a complaint or a witness statement. In such cases the very fact that a complaint has been made or a statement given may be accurate information irrespective of whether the complaint or the witness statement are factually correct.

## **2.8 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING APPLICATIONS FOR REGISTRATION CARDS UNDER THE NEW CONTROL OF HOUSING AND WORK (JERSEY) LAW 2012:**

### **Question**

Will the Chief Minister set out for members the number of people who have applied for registration cards under the new Control of Housing and Work (Jersey) Law 2012, breaking down the numbers into the nationality and country of origin of all those who have applied during the period 1st January 2014 to 31st March 2014?

### **Answer**

The figures below show all those people applying for registration cards between 1st January 2014 and 31st March 2014. This does not mean they are all new to the Island. People need registration cards when they move house or change jobs. When issuing cards we ask for an applicant's nationality, not country of origin.

The numbers of individuals who have applied for registration cards under the Control of Housing and Work (Jersey) Law 2012 between 1st January 2014 and 31st March 2014 inclusive, reported by nationality, are as follows:-

<b>Nationality</b>	<b>Total</b>
British (includes 2,197 Jersey-born)	4,136
Portuguese	903
Polish	519
Romanian	162
Irish	115
French	48
South African	36
Thai	31
Italian	26
Kenyan	24
Indian	23
Bulgarian	21
Latvian	21
Filipino	19
Australian	14
German	14
Hungarian	13
Zimbabwean	12
American	11
Czech Republic	11
Dutch	11
Spanish	10
Canadian	8
New Zealander	8



Swedish	7
Slovak	6
Bangladeshi	5
Chinese	5
Lithuanian	5
Brazilian	4
Finnish	4
Maltese	4
Russian	4
Belgian	3
Malawian	3
Pakistani	3
Sri Lankan	3
Swiss	3
Tunisian	3
Cuban	2
Danish	2
Estonian	2
Grenedian	2
Jamaican	2
Malaysian	2
Norwegian	2
Singaporean	2
Turkish	2
Ukrainian	2
Zambian	2

Argentinian	1
Austrian	1
Bahamian	1
Cypriot	1
Ecuadorean	1
Egyptian	1
Gambian	1
Guyanese	1
Israeli	1
Japanese	1
Mauritian	1
Mexican	1
Moroccan	1
Saint Vincentian	1
Senegalese	1
Slovenian	1
Ugandan	1
Venezuelan	1
	6,298

**2.9 THE DEPUTY OF GROUVILLE OF THE MINISTER FOR SOCIAL SECURITY REGARDING SICKNESS BENEFIT ENTITLEMENT:**

**Question**

Would the Minister confirm that a person, having contributed 2 quarters of social security contributions, is entitled to claim sickness benefit?

Could he advise whether someone who has subsequently returned to their country of origin is still entitled to claim sickness benefit from the Jersey Social Security system, if they can produce a doctor's certificate?

Is there a time limit on the length of time someone can claim sickness benefit, having contributed for 6 months, if they are no longer resident in the Island?

**Answer**

There are two separate contribution conditions to claim short-term incapacity allowance (STIA) (often referred to as sickness benefit):

1. The individual must have paid at least three months of contributions by the end of the quarter but one before the start of the claim.
2. The individual must have contributions or contribution credits in the quarter but one before the start of the claim. E.g. if the individual is ill in July, contributions from January to March are considered. The value of the benefit paid is reduced if contributions are missing for any of these three months.

STIA only can be paid outside of Jersey, on receipt of a medical certificate, if:

1. the claim commenced prior to the person leaving Jersey AND
2. a reciprocal agreement for the payment of STIA is in place with the other country.

STIA can only be paid for a maximum period of a year regardless of whether the person is living abroad or in Jersey. The standard rate of STIA is £191.38 per week. As at 31/12/2013, there were 1,430 STIA claims in payment of which 7 were being paid outside Jersey.

In addition to STIA, which is only available for a maximum of one year, long term incapacity allowance (LTIA) is also available to working age individuals with a long-term loss of faculty. This is paid on a percentage basis, from 5% up to 100% of the standard rate of benefit.

A claim for LTIA is decided by a medical board, made up of medical practitioners (doctors) registered either under the local law for the registration of doctors in Jersey or the similar law in the UK.

The contribution conditions are similar to those of STIA:

1. The individual must have paid at least six months of contributions by the end of the quarter but one before the start of the claim.
2. The individual must have contributions or contribution credits in the quarter but one before the start of the claim. E.g. if the individual makes a claim in July, contributions from January to March are considered. The value of the benefit paid is reduced if contributions are missing for any of these three months.

LTIA can be paid outside Jersey for up to 13 weeks, or if there is a reciprocal agreement in place with the other country. There is provision within the reciprocal agreement legislation for the country of residence to arrange a medical board on our behalf when a review is required. The doctor will complete the medical report and when it is returned it is passed to our doctors to award the percentage of LTIA. There is no necessity for the person to return to Jersey for a medical review unless they prefer to be seen by our medical board. As at 31st December 2013, there were 3,815 LTIA claims in payment of which 350 were being paid outside Jersey.

## 2.1 SENATOR S.C. FERGUSON OF THE CHIEF MINISTER REGARDING MINISTERIAL DECISIONS IN 2014:

### Question

Given that there are 25 Ministerial Decisions which have not been listed on the gov.je website for 2014, would the Chief Minister provide a list, including titles of these decisions, and the reason for their exemption from publication?

### Answer

The Chief Minister's Department has raised 15 exempt Ministerial Decisions so far in 2014.

They were exempted as scheduled below, based on the [Code of Practice on Public Access to Official Information booklet \(size 20kb\)](#) which is available on gov.je.

MINISTERIAL NUMBER	DETAIL	EXEMPTION
2014-0005	Community Provisions (Restrictive Measures - Iran)(Jersey) Order 2012, as amended	Exemption 3.2(a) (xi): Information shall be exempt from disclosure, if such disclosure would, or might be liable to prejudice the competitive position of a third party, if and so long as its disclosure would, by revealing commercial information supplied by a third party, be likely to cause significant damage to the lawful commercial or professional activities of the third party.
2014-0020	Appeal to the Assistant Chief Minister for in principle consent to be granted in respect of the acquisition of a residential property by a company under Article 20 of the Control of Housing and Work (Jersey) Law 2012.	Exemption 3.2.1 (a) (i): Information shall be exempt from disclosure, if such disclosure would, or might be liable to constitute an unwarranted invasion of the privacy of an individual.
2014-0029	Law drafting instructions concerning an amendment to the Financial Services Commission (Jersey) Law 1998 (that are intended to remove the stated retirement age of Commissioners from the Law)	Exemption 3.2.1(a) (xiv): Information shall be exempt from disclosure, if such disclosure would, or might be liable to constitute a premature release of a draft policy which is in the course of development.
2014-0030	Community Provisions (Restrictive	Exemption 3.2 (a) (xi)

	Measures - Iran) (Jersey) Order 2012	
<b>2014-0041</b>	Acquisition of Apartment, St Helier	Exemption 3.2.1 (a) (i)
<b>2014-0046</b>	Community Provisions (Restrictive Measures - Iran) (Jersey) Order 2012, as amended	Exemption 3.2 (a) (xi)
<b>2014-0048</b>	Law Drafting instructions to amend Freedom of Information (Jersey) Law 2011 – Regulations to enable the objectives agreed to by the Council of Ministers (CoM) to be achieved in respect of cost limits and fees	Exemption 3.2.1(a) (xiv)
<b>2014-0049</b>	Law drafting instructions for Freedom of Information (Jersey) Law 2011 in respect of articles 13, 17 and 44	Exemption 3.2.1(a) (xiv)
<b>2014-0054</b>	Appeal to the Assistant Chief Minister seeking to be granted early residential status under Regulation 4(2) (a) ('Entitled for Work Only status') of the Control of Housing and Work Regulations.	Exemption 3.2.1 (a) (i)
<b>2014-0063</b>	Requests for Restructuring Provision funds in support of the Public Sector Reform Programme and transfer of budgets to the Chief Minister's Department.	Exemption 3.2.1 (a) (xiv)
<b>2014-0066</b>	Appeal to the Assistant Chief Minister seeking to be granted early residential status under Regulation 2(1) (f) of the Control of Housing and Work Regulations on the grounds of hardship.	Exemption 3.2.1 (a) (i)
<b>2014-0067</b>	Budget transfer to Chief Minister's Department (CMD) from Treasury and Resources (T&R).	Exemption a (vii) (ix) (xiv):  Such disclosure would, or might be liable to harm the conduct of national or international affairs or the Island's relations with other jurisdictions; cause damage to the economic interests of the Island; constitute a premature release of a draft policy which is in the course of

		development.
<b>2014-0080</b>	Application for 'Entitled' residential status under Regulation 2(1) (f) of the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013 on the grounds of hardship.	Exemption 3.2.1 (a) (i)
<b>2014-0094</b>	Freedom of Information (Schedule 1) (Jersey) Regulations 201– regulations to be drafted	Exemption 3.2.1(a) (xiv)
<b>2014-0097</b>	Control of Housing and Work Law (CHWL) Applications	Exemption 3.2.1.b:  Information shall be exempt from disclosure, if the information concerned was given to the authority concerned in confidence on the understanding that it would be treated by it as confidential, unless the provider of the information agrees to its disclosure.

The Ministerial Decisions exempted as policy in the course of development under Exemption 3.2.1(a) (xiv) become public when the related proposal or draft law is lodged with the States Assembly.

## **2.11 SENATOR S.C. FERGUSON OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING MINISTERIAL DECISION IN 2014:**

### **Question**

Given that there are 13 Ministerial Decisions for 2014 for the Treasury and 6 for Property Holdings which have not been listed on the gov.je website, would the Minister provide a list, including titles of these decisions and the reason for their exemption from publication?

### **Answer**

When a draft Ministerial Decision is prepared in Treasury and Resources it is first loaded onto the Livelink system where it is reviewed for appropriateness by officers at the States Greffe. At this stage it is allocated an MD number. The States Greffe process includes the approval (or otherwise) of a proposal that a decision is considered to be exempt from publication under the Code of Practice on Access to Information held by the States, Committees of the States and Departments of the States. Not every decision that is loaded in this way progresses to full signature by the Minister. This may be, for example, because an alternative course of action may have been identified. Furthermore, a draft decision loaded onto the system may be complex and may take some time to progress to formal signing by the Minister. It may, therefore, appear chronologically after earlier numbers. Numbers which appear to be “missing” may, in fact, be simply pending signature. It is

therefore not accurate to assume that any Ministerial Decision numbers listed on the gov.je website equate to signed, exempt decisions.

Ministerial Decisions that have been approved as “exempt” by the States Greffe are exempt from publication for a valid reason. This means that publication of the Decision Summary Title in itself could be undesirable, for example where negotiations relating to specific properties are still ongoing. However, to be helpful, information has been provided below where it has been possible to do so.

The following Ministerial Decisions are ‘missing’ from the sequential listing on the gov.je website. A full listing has been provided as it was not possible to reconcile to the number of decisions mentioned in the Senator’s question. The tables below set out those decisions and where applicable, the reasons for exemption. “Number not used” includes both decisions which did not progress to formal signature and those pending formal signature.

<b>Decision Reference</b>	<b>Date of Decision</b>	<b>Decision Summary Title</b>	<b>Reason/Exempt category</b>
<b>Treasury</b>			
MD-TR-2014-0005	Number not used		
MD-TR-2014-0009	Number not used		
MD-TR-2014-0014	Number not used		
MD-TR-2014-0016	17 March 2014	[ ] Housing Trust for Borrowing [property]	Exempt - Commercial confidentiality
MD-TR-2014-0026	Number not used		
MD-TR-2014-0027	25 May 2014	[Internal reallocation of funding]	Exempt - Premature release of policy
MD-TR-2014-0029	Number not used		
MD-TR-2014-0030	3 April 2014	Funding for [external] Review	Exempt - Premature release of policy and damage to interests of the Island
MD-TR-2014-0035	28 April 2014	Proposal for PECRS to invest in a new [ ] Fund	Exempt - Commercial confidentiality
MD-TR-2014-0037	Number not used		
MD-TR-2014-0039	Number not used		

MD-TR-2014-0042	Number not used		
MD-TR-2014-0043	Number not used		
MD-TR-2014-0045	25 May 2014	[Fund] Investment Strategy	Exempt Commercial confidentiality -
MD-TR-2014-0046	25 May 2014	[Fund] Investment Manager and Investment Strategy	Exempt Commercial confidentiality -
MD-TR-2014-0047	Number not used		
MD-TR-2014-0049	Number not used		
MD-TR-2014-0050	Number not used		
<b>Property Holdings</b>			
MD-PH-2013-0218	19 December 2013	1, Don Terrace, St Helier – Sale	Public – signed in 2013
MD-PH-2013-0221	Number not used		
MD-PH-2014-0013	17 February 2014	Authority to Negotiate the Acquisition of [property]	Exempt Commercial confidentiality -
MD-PH-2014-0019	18 February 2014	Marine Lake Project – Lease of West Park Bunker and Licence of Lake Structure	Public – Greffe include on website in 2013 listing
MD-PH-2014-0046	Number not used	Piquet House Proposed sale - confirmation decision	Not progressed due to States decision P16/2014
MD-PH-2014-0092	4 June 2014	Proposed Development of [property]	Exempt Commercial confidentiality -



Some detail has been withheld to protect the exemption criteria.

The number of exempt decisions should be placed in the overall context of the number of decisions processed. The percentage is small and the presumption is always toward publication unless exemption is essential.

#### Treasury

Year	Exempt (signed)	Number not used	Total numbers used
2012	23	5	121
2013	28	11	120
2014	6	12	51

#### Property Holdings

Year	Exempt (signed)	Number not used	Total numbers used
2012	9	8	132
2013	6	3	225
2014	2	2	95

### **2.12 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING VISITS TO SECONDARY SCHOOLS BY STATES MEMBERS:**

#### **Question**

Would the Minister provide a list of visits to the Island's secondary schools and 6th form colleges which have been undertaken since the beginning of the year by sitting States Members to talk to students, including which schools and on what dates the visits took place?

Could the Minister also outline the rules/ guidelines which determine whether a visit by a States Member to a school is appropriate, and what safeguards, if any, exist to ensure that no school is inadvertently biased in allowing some members more opportunities to meet potential young voters than other members?

#### **Answer**

The Education, Sport and Culture department does not keep a central record of visits to individual schools. Each school is responsible for organising its own timetable and for inviting guest speakers. This includes States Members. Teachers and head teachers are expected to ensure that students

learn about the democratic process and social issues in a neutral environment where both sides of an argument are presented. This is a well-recognised principle among the teaching profession.

While politicians might be invited to talk about the democratic process in Jersey or as part of a debate on a particular issue being studied in the curriculum, they are not given access to younger voters for the purposes of canvassing. It would not be appropriate or democratic to provide captive audiences of young voters in schools.

However, it is recognised that young electors should have convenient opportunities to attend hustings outside curriculum time. Arrangements have been made to support this. During an election period, candidates who want to organise a hustings on school premises are able to do so and guidance to this effect has been sent to secondary head teachers. There are also guidelines for candidates. In the interests of impartiality, all the candidates for the position under discussion (Deputy, Senator or Connétable) must be invited to the meeting. This is to ensure that all candidates have equal access to the young voters who wish to attend. The guidance notes are attached below.

**Guidance notes to secondary head teachers  
and the Principal of Highlands College**

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**Subject:** Protocols regarding access by candidates to school pupils over the age of 16 during electoral periods

**Issued by:** Minister of Education, Sport and Culture

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## **1 INTRODUCTION**

Since 2008, 16 year olds have been eligible to vote in elections to the States of Jersey. As most of this age group is in full-time or part-time education, this presents a number of issues for schools and colleges.

The following advice has been produced to guide schools. It applies at all times but head teachers will need to be particularly aware of it during the “pending period” for each election – which is from the date nominations open (noon on 05 September 2011) to the close of polls on election day on 19 October.

## **2. PRINCIPLES**

These guidelines are intended to assist the democratic process and to ensure that young voters are introduced to it as objectively as possible. The principles which underpin them are to:

- help young people understand the political process;
- encourage them to use their vote;

- ensure fairness and balance;
- avoid disruption to education;
- prevent young people being placed under any duress.

In applying these principles it is important to distinguish between educating young people about the electoral process and electioneering on behalf of a particular candidate or party.

### **3. GUIDANCE**

- 3.1 New electors have the right to be informed about the nature of the electoral process. If this information is given within the normal educational context, for example through the Citizenship Curriculum, it should be presented impartially without supporting any particular candidate, group of candidates or political party.
- 3.2 The Department for Education, Sport and Culture pamphlet 'Register to Vote' outlines the registration process and may be made available in schools for all first time voters.
- 3.3 During the election period schools should not invite or allow any candidates for election to campaign in schools. Pupils who are eligible to vote have the same opportunities as other members of the electorate to attend public hustings in their own time.
- 3.4 If an individual candidate approaches a school seeking an opportunity to address young voters, head teachers should decline the request. This is to ensure fairness to all candidates, avoid disruption to the curriculum and avert any potential concern about pupils being placed under undue pressure.
- 3.5 Candidates will not have the right to personally distribute leaflets or campaign on school premises. The school will provide a suitable display area/ noticeboard to display the candidates' manifesto brochure produced by the Privileges and Procedures Committee. This ensures the same format and amount of information is available about each candidate.
- 3.6 Teachers will be able to use leaflets and other electoral publicity as an educational resource if they wish provided they do not favour any particular candidate. They must ensure impartiality.
- 3.7 Voting registration forms can be made available in schools but it is the voters' responsibility to return their own form to the relevant parish hall.

### **4. GENERAL**

- 4.1 These guidelines have been produced to ensure fairness and encourage electoral participation. They are unlikely to cover every eventuality. Head teachers may seek additional advice from the Director of Education, Sport and Culture.
- 4.2 The guidelines will come into force on 01 July 2011 in time for the beginning of the 2011 electoral cycle. They will apply to all elections held after that date.

## **Public Elections**

### **Meetings on school and youth service premises**

#### **Guidance for candidates**

##### **School premises:**

School premises may be available for hire outside school hours for candidates who wish to arrange meetings with prospective voters.

In the interests of impartiality, all the candidates for the position under discussion must be invited to the meeting. This would mean all senatorial candidates and, in the case of Deputies or Connétables, all the candidates for a particular parish or district.

##### **Youth Service premises:**

Youth premises may also be available for hire outside youth session hours for candidates to hold meetings with prospective voters on the same basis.

Youth projects may also arrange meetings themselves if there is a request from young people who attend. If this takes place, the invitation will be issued to all candidates running for the same post (ie. candidates for Deputies or Connétable in the relevant parish, or for election as Senator) so that all candidates are treated equally and fairly.

Candidates interested in hiring out premises are invited to contact the school or youth premises directly to determine availability.

*Attendance at political meetings by young voters is entirely voluntary.*

**Education, Sport & Culture Department**

**2.13 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING UNOCCUPIED PROPERTIES IN THE ISLAND:**

**Question**

Given its access to rating information, can the Comité des Connétables advise the number of properties in the Island currently unoccupied and provide the data, indicating which are domestic and commercial dwellings?

**Answer**

The Rates (Jersey) Law 2005 defines “occupier” as the person entitled to occupy and use the land by virtue of being the owner of the land; or the person to whom the land is let under a lease or tenancy agreement.

There is therefore an “occupier” for every property and none is “unoccupied” under the Rates Law.

**2.14 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE DEFINITIONS USED TO ASSESS ALLEGATIONS OF ABUSE:**

**Question**

Will the Minister -

- (a) set out the definitions of sexual, physical and emotional abuse used by the Children’s Department when assessing allegations of such abuse;
- (b) set out the procedures adopted internally by the Department when such abuse is alleged;
- (c) explain in full the various steps and bodies that are consulted or involved in deciding whether abuse actually took place;
- (d) state what safeguards there are to ensure that the various bodies in (c) are given complete and accurate information regarding the alleged abuses and the procedures that are adopted by the Department to ensure that any factually incorrect information that is forwarded to decision makers is corrected as rapidly as possible?

**Answer**

- (a) All of the agencies involved in responding to allegations of abuse work within the definitions and procedures detailed in the JCPC Multi-Agency Child Protection Procedures (February 2011). Presenting issues at the Multi Agency Safeguarding Hub (MASH) are defined as follows:

Category	Description
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Child in Need	Children who are assessed as requiring services in order to ensure their health and development needs are met. What will happen to the child's health and development without services? This is the question to be considered and the likely effect the services will have on the child's standard of health and development.
Domestic Abuse	An incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, the following types of abuse: psychological; physical; sexual; financial; emotional.
Child Protection	Children who are suffering or likely to suffer significant harm. Concerns about abuse and maltreatment. In this situation the Decision maker will consider the need for taking action to immediately protect the child (child protection investigation).
Child Sexual Exploitation	This involves exploitative situations, contexts and relationships where young people receive 'something' _e.g. food, accommodation, drugs, alcohol, affection, money etc) as a result of performing, and/or others performing on them, sexual activities. CSE can also occur through the use of technology without the child's immediate recognition.
Missing Children	A missing child is anyone whose whereabouts are unknown, whatever the circumstances of disappearance. The child will be considered missing until located and his/her wellbeing, or otherwise, established.
Self Harm	The definition of self-harm adopted by the NICE guideline is 'intentional self-poisoning or injury, irrespective of the apparent purpose of the act'. Self-harm includes poisoning, asphyxiation, cutting, burning and other self-inflicted injuries.
Sexting	This refers to sexual communications with content that includes both pictures and text messages, sent (by under 16 year olds) using mobile phones and other electronic media. "Youth produced sexual images"

The document is published and available on the Safeguarding Board website at [jcpc@gov.je](mailto:jcpc@gov.je).

- (b) All enquiries will be received within the Multi Agency Safeguarding Hub (MASH). This includes Children's Service, the States of Jersey Police, Education welfare officers and health service representatives. Possible progress from this includes a multi agency discussion, multi agency strategy meeting, joint investigation, allocation to social work services, further assessment, registration under the Child Protection structure, and accommodation by the Minister for a Looked After Child. The Minister has a duty to investigate and accommodate where necessary.
- (c) As above

- (d) MASH and Social Work teams may work with fragments of information at an initial stage, but further exploration with other agencies will lead to a comprehensive picture being gathered. All enquiries into MASH allow each case to be dealt with by all agencies simultaneously under joint working protocols. This is shared on a confidential basis with those involved with the children as and when needed to ensure that they are safeguarded. Prior to the development of the MASH all agencies worked to joint protocols however, the co-location of teams into the MASH and the development of a single IT system to capture the information since August 2013 has enabled more efficient use of existing resources to respond to enquiries.

**2.15 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE INCLUSION OF STATES-FUNDED FOSTER HOMES UNDER THE HISTORIC ABUSE REDRESS SCHEME:**

**Question**

Will the Chief Minister advise Members -

- (a) whether the Council of Ministers has decided to include under the historic abuse redress scheme claims against abuse that occurred in States funded foster homes;
- (b) whether the Council of Ministers has received any further claims for abuse that occurred after the cut off date for compensation under the scheme and whether or not it has allowed these claims to be considered for compensation and, if not, why not?

**Answer**

- (a) The Council of Ministers has recently permitted the known claims involving alleged abuse in States' foster care to be considered under the Scheme as exceptions.

The Council of Ministers will give further consideration to extending the scheme to cover alleged abuse in States' foster care at a future meeting.

- (b) Four claims were received by the Historic Abuse Redress Scheme after the cut-off date for submission of claims (30th September 2012). The Council of Ministers considered these claims in anonymised format, and the reasons given for their late submission. All four were permitted to be considered under the Scheme, as if they had been received before the deadline of 30th September 2012.

**2.16 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE NUMBER OF CASES OF SEXUAL ABUSE REPORTED TO THE CHILDREN'S SERVICE SINCE 1995:**

**Question**

Will the Minister advise members of the number of cases of sexual abuse of children that were reported to the Children's Service in each and every year since 1995 together with the following information -

- (a) whether the alleged offences took place on private property or public property such as States homes, schools, institutions or foster homes funded by the States;
- (b) whether all the alleged offences were reported to the States of Jersey Police and, if not, why not;
- (c) what action was taken in each case to protect the children concerned and bring the perpetrators to court;
- (d) how many successful prosecutions were carried out in these cases and what penalties were imposed on the perpetrators?

**Answer**

Information systems used by the children’s service do not enable the capture of the information in the format requested. Historic Individual case files are retained and will contain this information on a case by case basis. Although it would be possible to audit all case files to provide this information, it would be an extensive task requiring significant additional resources.

Since August 2013, all enquiries relating to safeguarding concerns for children are received by the multi agency safeguarding hub (MASH). This includes Children’s Service, the States of Jersey Police, Education welfare officers and health service representatives. In the first eight month of operation, the MASH received 1379 inquiries. These are broken down as follows:

<b>Categories</b>	<b>MASH Records</b>	<b>Percentage</b>
Child in Need	905	66%
Domestic Abuse	190	14%
Child Protection	122	9%
Self Harm	107	8%
Missing Children	26	2%
Sexting	21	<1%
Child Sexual Exploitation	8	<1%
<b>Grand Total</b>	<b>1379</b>	

It should be noted that Child Sexual Exploitation accounts for less than 1% of the enquiries received.



- (a) Information systems used by the children's service do not enable the capture of the information in the format requested. Historic Individual case files are retained and will contain this information on a case by case basis. Although it would be possible to audit all case files to provide this information, it would be an extensive task requiring significant additional resources. Wherever alleged offences take place, they are dealt with in the same way.
- (b) All enquiries into MASH allow each case to be dealt with by all agencies simultaneously under joint working protocols. As stated above, this includes the States of Jersey Police. Prior to the establishment of the MASH, all alleged offences would be reported to the States of Jersey Police for joint investigation.
- (c) Matters relating to prosecution are the responsibility of the Law Officers Department and the States of Jersey Police and should be directed to those Departments. The Children's service will in each case, arrange for multi agency discussion, multi agency strategy meeting, joint investigation, allocation to social work services, further assessment, registration under the Child Protection structure, and accommodation by the Minister for a Looked After Child if necessary.

Matters relating to prosecution are the responsibility of the Law Officers Department and the States of Jersey Police and should be directed to those Departments

**2.17 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE LOSS OF TAX FROM THE ZERO/TEN REGIME:**

**Question**

In response to question 3781 asked on the 13th May 2008 on the loss of tax receipts from International Business Companies (IBCs) and Exempt Companies due to the transition to the zero/ten tax regime the then Minister estimated losses of £11.7m by 2009 from zero rating Exempt Companies and a gradual reduction to a net loss of £16m from the 10% rate applied to IBCs by 2013, but stated that "it will only be in 2013 that the complete effect of zero/ten will be known". Is that effect now known and, if so, will he inform members what figure it is, and if it is not known, will he explain why?

**Answer**

I can confirm that Treasury and Resources are in a position to provide more detailed information than they were able to at the time of Deputy Southern's earlier question (3871) tabled on 13th May 2008. Accordingly;

**Exempt Companies**

The revenue receipts from Exempt Company fees for the year of assessment 2008 (the last year of the Exempt Company regime) were £11.0 million. Therefore the reduction of revenue from Exempt

Companies following the introduction of zero/ten was in line with the projected estimate of £11.7 million.

### **International Business Companies**

The income tax charged in respect of International Business Companies profits for the income tax years of assessment 2008, 2009, 2010 and 2011 (the last year of the International Business Company regime) are as follows:-

<b><u>Year of Assessment</u></b>	<b><u>Income tax charged (£million)</u></b>
2008	65.3
2009	25.5
2010	22.5
2011	24.1

As the Deputy will recall, it has been explained on numerous previous occasions that income tax receipts have fallen due to the effects of the financial crisis.

Since 2008 income tax forecasts have been revised downwards successively as the full scale of the crisis has emerged.

It would be wrong to state that the reduction in International Business Company revenue has been solely down to the introduction of zero/ten.

### **2.18 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING STATUTORY REDUNDANCY PAYMENTS:**

#### **Question**

Can the Minister explain why, following the closure of Just Glass & Windows with associated redundancies at the beginning of May, there has still been no payment of statutory redundancy pay or insolvency benefit for the workers concerned and state what action will he take to ensure that these ex-employees receive appropriate support in the immediate future? Since the system introduced in 2009 was intended to deliver support promptly following redundancies, does the Minister consider that the scheme is correctly set up and, if not, will he address its faults, if any?

#### **Answer**

The payment of statutory redundancy pay is the responsibility of the employer.

Insolvency benefit was introduced on 1st December 2012 under the Social Security (Jersey) Law 1974. For a person to qualify to receive insolvency benefit their former employer must be "bankrupt". This means that the employer must have gone into administration, liquidation or receivership in Jersey or elsewhere, or entered in Jersey or elsewhere into an arrangement with the employer's creditors. In the case of Just Glass & Windows Ltd, the Company has ceased trading but none of these things has yet happened.

Where an employer has ceased trading but is not insolvent, the former employees have recourse to the Jersey Employment Tribunal and to the Courts for amounts that are owed to them. Any former employee of Just Glass & Windows Ltd who is suffering from financial hardship and who meets the qualifying conditions for Income Support may put in a claim for this benefit. Social Security Officers have been directed to give immediate attention to any such claims from these former employees as well as to respond immediately to any requests for assistance with job seeking.

Discretion is not available to pay insolvency benefit where there is not an insolvency situation. In other jurisdictions, legal and formal insolvency proceedings must generally be instituted before any payments are considered. In the UK, if the employer is not insolvent and owes money to employees, the Insolvency Service cannot help.

The Minister is satisfied that the scheme is operating effectively and providing the support that was intended in insolvency situations. During 2013, the Department paid out over £1 million in relation to insolvency benefit and the benefit supported 156 individuals who were made redundant due to the insolvency of their employer.

## **2.19 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDIN THE GATEWAY TO SOCIAL HOUSING:**

### **Question**

Would the Chief Minister set out for members details of the new relationship between Andium Homes, the Minister for Housing and the Population Office, which is now in charge of the gateway to social housing and thereby the waiting list, and state who States members should approach over often complex problems involving the allocation of homes?

### **Answer**

The Minister for Housing has responsibility for housing policy, including the Housing Gateway, through which tenants are allocated to social housing providers, which will include Andium Homes.

The customer-facing, day-to-day administration of the Housing Gateway is undertaken by the Population Office on behalf of the Minister for Housing.

Members of the public and States Members are free to contact the Population Office, who will answer queries about the Housing Gateway and allocation of homes. That includes the processing of appeals, which are considered by the Minister for Housing.

## **3. Oral Questions**

### **3.1 Deputy R.G. Le Hérissier of St. Saviour of the Chief Minister regarding the number of Serious Case Reviews initiated or completed in the last 2 years:**

Could the Chief Minister inform the Assembly of the number of Serious Case Reviews which have been initiated or completed in the last 2 years, and how many are ongoing at present? Would he state what major changes, if any, have been made as a result of these reviews?

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

Could I ask my Assistant Minister to answer this? He is responsible for safeguarding issues so far as they touch our department.

**Senator P.F. Routier (Assistant Chief Minister - rapporteur):**

I have been advised that in the last 2 years the Independent Safeguarding Chair has decided to undertake 6 Serious Case Reviews, 4 relating to children and 2 to adults. Of those one has been completed. There have been major changes in recent years to improve safeguarding practices across the States services. These changes include the restructuring of children's social services, the development of multi-agency children protection procedures and a Multi-Agency Safeguarding Hub. Once all the current reviews are complete the Safeguarding Chair will be able to identify what additional improvements are required.

**3.1.1 Deputy R.G. Le Hérisier:**

Hopefully the Minister for Health and Social Services will go into more detail during questions without notice. I wonder if the Assistant Chief Minister could tell us what themes have emerged from these reviews because it seems quite extraordinary after all the massive reforms of children's services over the last several years and previous reports that we are still at this stage. What themes have emerged?

**Senator P.F. Routier:**

I am afraid it is too early to say if any particular themes have been emerging. There is one Serious Case Review which has been completed, which is similar to some others which may start. It has not been decided whether they warrant being a safeguarding report yet but that will be decided by the Independent Safeguarding Chair and that relates to sexual abuse of children. That is to be decided at a later stage whether they do warrant being a serious case review.

**3.1.2 Deputy M.R. Higgins of St. Helier:**

Would the Assistant Minister not agree that part of the problem of being able to identify what the problems are is the total inadequacy of the records? If he looks at written answer 16 to my question regarding offences of sexual abuse on children as reported to the Children's Service, what I see repeatedly written through is information systems used by Children's Service do not enable the capture of the information in the format requested.

[9:45]

Surely they should have adequate records instead of having to go trawling through all their records to see. Is it not a failure to have proper records so they can see what trends are emerging?

**Senator P.F. Routier:**

I have not had the benefits of looking at the written question answer as yet but I will obviously be doing that. Certainly it is important - vitally important - that all departments relating to Social Services do have adequate record keeping and it would obviously enhance the services if that was the case. I know that there is a desire within the Health Department to have good record keeping and I think that is one of their aims to achieve that.

**3.1.3 Deputy J.A. Hilton of St. Helier:**

Has the Assistant Minister been made aware of the preliminary findings of the latest Serious Case Review and if not why not?

**Senator P.F. Routier:**

I answered a similar question to this at the last sitting with regard to the particular case and I have not been made aware of the findings of that case yet because the Independent Chair is wanting to

speak to the people involved - the children involved - before it is disclosed to other people. The answer I gave last time was that as soon as the children have been spoken to the Chair will be deciding at what stage the review outcomes will be made known and obviously made known to me and I will share it as soon as I have it.

**3.1.4 Deputy J.G. Reed of St. Ouen:**

Given the incredibly significant number of Serious Case Reviews that are being undertaken could the Assistant Minister tell us what the Chief Minister's Department and indeed the Children's Policy Group are doing to deal with and address this matter regardless of what the outcomes are? There are obviously considerable issues around the safeguarding of children for the fact that we have 6 reviews taking place.

**Senator P.F. Routier:**

I can only share the Deputy's concern with regard to the seriousness of and the number of cases which are coming about. With regard to taking things forward we really need the independent Chair to come to her conclusion and publish her reports before myself or the Health Department are in a position to decide on what is the best way to enhance services. Certainly it is, for me, one of the highest priorities that I have to ensure that the co-ordination of safeguarding procedures are at the best they can possibly be.

**3.1.5 The Deputy of St. Ouen:**

When can we expect the 6 Serious Case Reviews to be complete?

**Senator P.F. Routier:**

I am afraid I cannot give an answer to that because speaking to the Independent Chair of the safeguarding review who does these reviews all over the U.K. and obviously in Jersey as well, serious case reviews can take 2 to 4 years to complete and they can be a long, long time because it is a matter of getting all the information together from across departments. I know the urgency that is required and we need to ensure that it is done as expeditiously as possible but the due process needs to take place. They are very, very complex issues to be dealing with.

**3.1.6 Deputy R.G. Le Hérissier:**

Would the Assistant Chief Minister not acknowledge that it is not his role just to be a messenger in these circumstances? It is the role of the people he represents to take action which may have to cut across Ministries. He may have to take action to say: "It is not good enough and we have to shake up the organisation." Would he not agree that is his role? It is not just to be a messenger.

**Senator P.F. Routier:**

I could not agree more. Once we have the results from the Serious Case Reviews that action will be taken but unfortunately we do not have the results of the Serious Case Reviews. I have to say the reports yesterday, the review which was published by the ...

**The Bailiff:**

I am sorry, Senator, I think that is going off the point.

**Senator P.F. Routier:**

Okay, I wanted to share my concerns.

**The Bailiff:**

You have given your answer. Very well.

### **3.2 Connétable P.J. Rondel of St. John of the Assistant Chief Minister regarding the number of applications for registration cards under the Control of Housing and Work Law:**

Would the Chief Minister state how many residents have applied for a registration card under the Control of Housing and Work Law and would he clarify whether long-standing residents who may have been qualified to live in Jersey for over 30 years are being required to produce 3 different proofs of residency which then need to be checked with the author before a registration card is issued?

#### **Senator I.J. Gorst:**

This matter is also delegated to my Assistant Minister but I am aware that the Connétable has a standing instruction with regard to the Economic Development Department. I am not sure whether he has with regard to my department.

#### **The Connétable of St. John:**

When the Chief Minister is in the House I would expect him to answer the question.

#### **The Bailiff:**

You have notified this outstanding instruction to the Greffier. You will make do with the Assistant Minister?

#### **The Connétable of St. John:**

No, the Minister is in the House. I would like him to answer the question.

#### **The Bailiff:**

I am afraid it is for the Assistant Minister. You have to do it when you submit the question.

#### **The Connétable of St. John:**

The Minister is in the House. The question was put to the Minister. It is up to the Minister to answer the question. You put it to him, Sir.

#### **The Bailiff:**

Please do not speak at the same time as me. The Assistant Minister will answer this.

#### **The Connétable of St. John:**

I must object.

#### **The Bailiff:**

You can deal with your objection by writing a standing instruction now, so that all questions are to be answered by the Chief Minister and then we will not have this problem again.

#### **Senator P.F. Routier (Assistant Chief Minister - rapporteur):**

Has the question been asked? **[Laughter]** I will do my best to answer the question. There have been 25,115 registration cards issued between 1st July 2013 and the end of May this year. Nearly 11,000 of those were for permanently “Entitled” people. Before issuing “Entitled” cards the department must be sure of a person’s residential status as an “Entitled” card provides open access to work and housing. This is usually straightforward as the relevant records are held by the Population Office. Where this is not the case an applicant may be required to confirm length of residence by 3 personal references which are then verified by the Population Office.

#### **3.2.1 The Connétable of St. John:**

Can the Minister please explain to the many residents out there who are being given the run around? I am aware of people who have been to Social Security, sent from Social Security to the Population Office, who require - they are told when they go down there - a letter of residency. Go down there with a letter of residency and then they are told they need at least 3 letters. All the persons who have signed it must have known them for at least 20 years-plus and one of those letters must be or should be from a neighbour who has known the person for an extended period of time. Can the Minister please explain why in some cases these people are given the run around and other persons, like myself for instance, walk into the Social Security office and get my card within 1½, 2 minutes?

**Senator P.F. Routier:**

Yes, I can recall a year ago - 1st July - the Connétable went to the department and got his card and was very pleased with the service he had. [Laughter]

**The Connétable of St. John:**

It has deteriorated since.

**Senator P.F. Routier:**

He remarked upon it to me but certainly everybody's circumstances are different. I am sure the Connétable would not want the department to be giving out cards to people who are not qualified. The department needs to carry out proper checks to ensure that the person is qualified especially if they are looking for a permanent card. We know when people have just arrived on the Island they go and get a card and it is very straightforward. They show their identification and because they are not getting any benefit from it they are just having a registered card. It is not entitling them to housing or anything like that. The Connétable will be aware no doubt, when he has looked at the States of Jersey website, that there is a very clear explanation of the information that people need to give because it gives a list of what your circumstances are and the type of information that people need to present at the department.

**The Connétable of St. John:**

Supplementary off that one.

**The Bailiff:**

I will come back to you, Connétable.

**The Connétable of St. John:**

It is my question after all. I am not even allowed to ask the Chief Minister by a ruling from yourself, and now I cannot even put a supplementary on what the Assistant Minister has said to challenge him.

**The Bailiff:**

Connétable, you know the rules. You know the practice. You have asked one supplementary already. I shall come back to you at the end in accordance with the way that everyone is treated. Deputy Southern.

**3.2.2 Deputy G.P. Southern of St. Helier:**

Does the Assistant Minister have any idea when we will have a completed population register showing who and where all 100,000 of us are? Is it one year, 3 years, 4 years, 20 years down the line before we will have an accurate register?

**Senator P.F. Routier:**

As the Deputy will be aware, the need for a registration card is only required when people are changing jobs or changing accommodation and when people come to the Island. The names and address register is building. The Statistics Unit has advised us that for them to be comfortable with a complete record it may take 3 or 4 years quite easily so that we already know that there are about 50,000 people who are already on the system - within the social security system and tax system - but there are other people that would need to be added to the list as it goes by.

### **3.2.3 Deputy J.H. Young of St. Brelade:**

As fairly shortly we will be coming up for the long summer holidays, can the Assistant Minister give us an assurance that we will not see a repeat of last year's problem regarding school leavers not being able to get the required letters and so on required to be able to get their registration card, so they can take jobs if they are fortunate to have a job offer?

### **Senator P.F. Routier:**

I asked that particular question of the department and they assure me that they are working very closely with the Education Department to try and resolve those matters from last year. There are new abilities within the Social Security Department to have direct contact with Education but there is still ... Education's recordkeeping system is not the same. It does not easily merge in but certainly we are very aware of the problem and the departments are working together.

### **3.2.4 The Connétable of St. John:**

Is the Assistant Minister aware that local people - Jersey-born people, who have never left this Island other than for the odd holiday - can go to Social Security to get their card and they are given an hour and a half of grief to have to prove that they are Jersey people, *et cetera*? When they are told that they have got all the person's records on file the answer that a person gets: "Our computers only go back 20 years." They also have all the files on microfiche. Why are they not using them instead of putting the public to all sorts of additional bother because the officers are too lazy to use the files they have? Please answer that question.

### **Senator P.F. Routier:**

Firstly may I address the issue with regard to the officers being too lazy? They are doing the job that they are being asked to do and they are doing it to the best of their ability and I hope that the Connétable will withdraw that comment about the officers being lazy. **[Approbation]** The particular issue with regard to people who are needing to look at records from ... well, it is prior to 1991 when records were kept on microfiche. The officers have to literally go and check... and do not have it available to them at the desk where the customer is going in so they have to go to another place to look at that, and they do that. But unfortunately, even when they do look at the microfiche, because of the way the records were kept in those days, they do not distinguish between Class 1 and Class 2 contributors so it does not confirm whether somebody is resident in the Island just by looking at the microfiche details, so that is why there needs to be additional information provided for those people.

### **3.2.5 The Connétable of St. John:**

Firstly, I will withdraw the comment about the officers being lazy. That was my fault for using that expression.

[10:00]

But it is very frustrating for the public that these things are happening. I would like to know what the Minister is putting in place for a review now that this has been in place for some 15 to 18 months. What review is going to take place, please?



**Senator P.F. Routier:**

The operation of the system came in on 1st July last year, so it has been in operation for just over 11 months. There has been a commitment right from day one to have a review after a year. When we debated the topic months and months ago a commitment was given to have a review of registration cards and the whole of the system, and that will be taking place as soon as we have completed one year.

**3.3 Deputy G.C.L. Baudains of St. Clement of the Minister for Transport and Technical Services regarding the present roadworks at the Dicq:**

Would the Minister confirm that the present roadworks at the Dicq are expected to last 8 weeks and does he not consider that the residents in the east of the Island have already suffered enough as a result of the previous J.E.C. (Jersey Electric Company) cable conduit laying?

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

The works now taking place at Grève d'Azette is the final phase of the J.E.C. pulling their cable through on the land side through the recently completed ducting. The works began on 30th May; the current projected finish date being 11th July. T.T.S. (Transport and Technical Services) are very well aware of the disruption this causes and are working with the Jersey Electricity Company to minimise any disruption. However, this must be weighed against the benefit to the Island of the J.E.C. having a secure electricity supply. Thank you.

**3.3.1 Deputy G.C.L. Baudains:**

Regrettably, I think the Minister misses the point of my question. Why was the present trench, which was not ... I mean, the road that ... the cable conduit was laid, the trench was reinstated, the road reopened. Now they are digging up what they had already reinstated to make a trench in order to make the connection for the cable. Could the Minister explain why that trench was not made when the road was closed for a couple of months originally? Why are they doing it now? Because if it had been done originally, surely it would just be a case of pulling the cable through; the road would only be closed for a few days, a week?

**Deputy K.C. Lewis:**

It is a better system we have now as opposed to just burying the cable; the fact that the J.E.C. with the assistance of T.T.S. have built ducting through the system. Any future cables can merely be pulled through and the road will no longer need to be dug up. There will be a few points where connection manholes will need to be made to connect the various sections of cable.

**3.3.2 Senator S.C. Ferguson:**

Continuing the theme of disruption for residents from the east, given the constraints to the Green Street Police Station construction site and the likely significant disruption arising from delivery of building materials such as concrete and steel to the site, what plan is being proposed by T.T.S. if it is necessary to close La Route du Fort for any significant time, bearing in mind the chaos caused recently by the closure of Mount Bingham?

**The Bailiff:**

I am sorry, Senator. I do not think that arises out of this question. Senator Farnham.

**3.3.3 Senator L.J. Farnham:**

I am sure this does arise from the question, what I am about to say. I am sure the Minister is aware that the Island ... and as well as the works that are mentioned in the question, there are a lot of

works being carried out at the moment and temporary traffic lights around the Island. I wondered if the Minister had any policy in his department relating to carrying out non-essential works on the lead-up to the busy summer period? There was once upon a time an order that no works would be carried out in the main tourism season. I understand that is probably unrealistic in this day and age but it does seem that there is no regard whatsoever for the important economic activity that goes on at this time of year.

**Deputy K.C. Lewis:**

The utility companies have a right in urgent matters to dig up any road they feel necessary. That is the state of law at the moment. But we will be having a Street Works Law coming in, I believe, late this year, early next year which will formalise everything where everything has to be approved in advance. We do have agreements with utility companies with regard to digging-up freshly laid roads. We have about a 3-year moratorium on that, but in an emergency, mains, electricity, a water main bursting, *et cetera*, or a major fault, they must go in and dig the road up, which is unfortunate, but we do keep it to an absolute minimum.

**3.3.4 Senator L.J. Farnham:**

Can I just ask the Minister to be clear? Is there a policy in place at present which is against non-essential works being carried out in the summer season or does that simply just not exist anymore?

**Deputy K.C. Lewis:**

We try and, as I say, minimise. Anything that needs to be done urgently has to be done. There is a trade-off, of course, because obviously we have the schools traffic in the morning so if we can do something in the school holidays it is beneficial but there again, we would run into the tourist season so everything is very, very carefully planned.

**3.3.5 Deputy G.C.L. Baudains:**

This time I hope the Minister will answer my question. We know that the work is vital. We know that it is being laid in a conduit so if he would perhaps answer the question as opposed to reading out prepared answers from his department. My question was why was the trench which was being dug to make the connection not made at the time that the conduit was being laid? Why have they reinstated the road only to dig it up again? Why was it not done at the same time?

**Deputy K.C. Lewis:**

They have not dug it to dig it up again. There are several pits being dug which will be the connection points. They will be the joint points. They are not digging-up the whole road. It is part of the process. It will be very hard to ... I mean, it is a major project putting this ducting in and it would be impossible to ... if I may finish? It would be impossible to liaise with the ship bringing the cable in and having an entire crew standing by ready to dig it up.

**Deputy G.C.L. Baudains:**

Perhaps the Minister could come back at a later date and answer the question why was it not done at the same time?

**3.4 Deputy S. Power of St. Brelade of the Minister for Home Affairs regarding the investigation into the fire at the former Plémont holiday camp on 4th January 2014:**

Following the fire at the former Plémont Holiday Camp on 4th January 2014 when the Jersey Fire and Rescue Service suspected arson, or declared suspected arson, would the Minister state whether the States of Jersey Police has investigated this incident and arson claim in the 5 months since

January and, without going into any operational detail, could the Minister give a synopsis of the current status of the investigation?

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

The States of Jersey Police were involved in a joint investigation with the States of Jersey Fire and Rescue Service into the fire at the former Plémont Holiday Camp. Due to extensive structural damage and the presence of highly toxic brown asbestos it was not possible to carry out an internal forensic examination to identify the source of ignition of the fire. Inquiries to date have failed to identify those responsible. While there are no further direct lines of inquiry the investigation remains open pending any further information which would support or negate as to whether this was a deliberate act or not.

**3.4.1 Deputy S. Power:**

I thank the Minister for that reply. Reading from the Minister's reply: that would then suggest that if there were to be another fire in another empty or abandoned building in private or public ownership that contained asbestos, or any other material, that that would impede any serious arson investigation. Would the Minister not agree? For instance, if there was a fire ...

**The Bailiff:**

I think you have posed that question, Deputy.

**Senator B.I. Le Marquand:**

Yes. That could be so. My understanding here is that the combination of structural and security and the asbestos, which creates a situation where there are genuine safety issues regarding either fire officers or police officers who might go into those parts. Now the departments have very clear duties to their own staff to protect them from dangers and although, as Members know, firemen will risk their own lives from time to time to go into a live fire situation to rescue a person who is there, they will not normally be called upon to take significant health risks in situations which are not that element of urgency. I would anticipate that when eventually the building is demolished, which may or may not be influenced by a debate to take place fairly shortly, that once it is safe to go in, that there will then be the possibility of some examinations.

**3.4.2 Deputy G.C.L. Baudains:**

I wonder if the Minister could assure us, in the light of the answer he has just given, that in fact, he is content that, in fact, the fire was not perhaps started by a homeless person in there who may still be there if his department has not investigated?

**Senator B.I. Le Marquand:**

I do not think the homeless person, if there was such a person, is still there. I think the difficulty is that, of course, there is no suspect in this particular case and therefore, in a sense, although if the Fire and Rescue Service and/or the police were to take risks by going in to attempt a forensic investigation, that would not take us anywhere other than perhaps some idea of cause without there being a suspect.

**3.4.3 Deputy S. Power:**

My final question is this. Have either the States of Jersey Police or the Jersey Fire and Rescue linked the planning status and public interest in this site with the outbreak of fire or suspected arson?

**Senator B.I. Le Marquand:**

I would jolly well hope that my officers in both areas do not make decisions based upon political considerations.

### **3.5 Deputy G.P. Southern of the Minister for Social Security regarding the delivery of insolvency benefit to support those made redundant as a result of insolvency proceedings:**

Does the Minister accept that the delivery of insolvency benefit to support those made redundant as a result of insolvency proceedings should be prompt and does he consider that the administration of this benefit is capable of doing so in all cases?

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

I totally agree with the Deputy that the payment of insolvency benefit should be prompt. The purpose of the benefit is to deal with the immediate and unexpected loss of employment and to prevent hardship by providing payments much more quickly than would be the case if the former employees of insolvent employers have to make individual claims as creditors in an insolvency proceeding. I am satisfied that the benefit is achieving that aim. However, in administering the benefit, my officers must be sure that the employer has gone into administration, liquidation or receivership or has entered into an agreement or arrangement with creditors in Jersey or elsewhere. Also certain proofs have to be provided, usually by an insolvency practitioner, to ensure that the former employees are entitled to receive benefit. This can take longer in some cases than in others. The desire to provide prompt financial support does not mean that payments can be made to individuals before the necessary checks have been undertaken to satisfy the conditions set out in the law.

#### **3.5.1 Deputy G.P. Southern:**

I thank the Minister for that answer but ask him whether he finds it unsatisfactory that a company like Just Glass, which ceased trading some 7 weeks ago, making its employees redundant... those employees have yet to receive any redundancy payment at all.

#### **Senator F. du H. Le Gresley:**

I would direct the Deputy to my written answer to this particular question - question 18 - when I made it clear, of course, that statutory redundancy pay is the responsibility of the employer not the States. It is certainly disappointing that the directors of this company appear not to be taking their responsibilities seriously with regard to looking after the interests of their former employees but at the moment my understanding is that attempts are being made to contact the directors - albeit unsuccessful to date - and that the employees have lodged claims through the Employment Tribunal for money they say is owed to them.

#### **Deputy G.P. Southern:**

And does he find it satisfactory or unsatisfactory that this is the case?

#### **Senator F. du H. Le Gresley:**

The issue is really, is the company insolvent. It is not for the Minister or for the staff at Social Security to make that decision or conclusion. There are processes that have to be made and taken by a company in these circumstances and until those processes commence, the benefit is not payable.

#### **3.5.2 Deputy G.P. Southern:**

Accepting that this particular employer was obviously a scammer and a fraud, has ceased to trade and then skipped the Island, does the Minister intend to alter the law in any way so that those who

have ceased trading fraudulently can be caught and redundancy payments can be made promptly for their employees?

[10:15]

**Senator F. du H. Le Gresley:**

I think it would be wrong for me to comment on the reasons why this company has ceased trading, even though the Deputy has come to his own conclusions obviously. Any suspicion of fraud is not a matter for a department or a Minister to be dealing with. It is a matter for the courts. It is unfortunate, as I said earlier, that the directors of this company are not taking their responsibilities seriously in relation not only to their staff and former employees but also to their creditors, and if anybody is listening to this debate today, perhaps they would search their conscience and contact their accountants or an insolvency practitioner in Jersey to get on with the insolvency proceedings.

**Deputy G.P. Southern:**

The question was ... Sir, if I may, the question has not been answered. The question was: is he prepared to do anything to change the law to get people like this who just cease trading and skip the Island?

**Senator F. du H. Le Gresley:**

The law, as the Deputy is well aware, is to provide insolvency benefit. To date we do not know if this company is insolvent. It is not impossible that the company directors could raise money to reopen the doors and commence trading. It is not, as I said before, for the Minister or the officers at Social Security to be making conclusions about whether a company is insolvent or not. We need to have proof provided through either an insolvency practitioner or an application to make the company *en désastre* through the Viscount's Department.

### **3.6 Deputy S.Y. Mézec of St. Helier of the Chief Minister regarding the cessation of the prosecution role of the Attorney General and the establishment of a separate prosecution service:**

Following his support earlier this year for an end to the dual role of the Bailiff, does the Chief Minister also support an end to the prosecution role of the Attorney General and the establishment of a separate prosecution service?

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

The role of the Attorney General was considered in detail by Lord Carswell in 2010. He concluded that the Attorney General should continue to be responsible for prosecutions and I have no reason to disagree with Lord Carswell on this matter.

#### **3.6.1 Deputy S.Y. Mézec:**

Regardless of what Lord Carswell did or did not say, does the Minister think it is appropriate for the chief prosecutor to also be the Government and States legal adviser and does he not see a potential conflict of interest there?

**Senator I.J. Gorst:**

I think I have made my position quite clear. There is appropriate separation within the office of Attorney General for these matters, and I share the conclusion, as I have said, of the Carswell review.

#### **3.6.2 Deputy S.Y. Mézec:**

What does the Chief Minister say to people outside the Island when he explains to them about Jersey's constitution? Do they do what I had the experience of when I was visiting Cardiff a few weeks ago where they were far more surprised about the roles of the Attorney General than they were about the Bailiff? Does he think people outside the Island looking in see that as a good thing?

**Senator I.J. Gorst:**

I have to say in all my trips outside of our community and when distinguished visitors visit our community this is an issue which has never been raised with me. I think around the globe and in other small Commonwealth jurisdictions there is far more concern that there might be political involvement in the role of the Attorney General and the prosecution service, something which we do not have within our system. It is those jurisdictions where Attorney Generals are appointed by politicians that the concern arises in my experience.

**3.7 Connétable D.W. Mezbourian of St. Lawrence of the Minister for Health and Social Services regarding travel subsidies or supplements available from Health and Social services for people with medical conditions who can no longer drive:**

What travel subsidies or supplements, if any, are available from Health and Social Services to people who have medical conditions that prevent them from driving a car?

**Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):**

The department does not provide any travel assistance beyond that for (1) overseas transport in an emergency, which is free of charge; (2) planned overseas transport for treatment, which is means tested; and (3) ambulance and patient transport to and from treatments for both emergency and planned care. The Social Security Department provides a range of financial assistance to individuals who have long-term medical conditions through the means test income support scheme and contributory incapacity benefits.

**3.7.1 The Connétable of St. Lawrence:**

A supplementary. We have just heard from the Minister that those people who have medical conditions that are not controlled by medication and, therefore, prevent them from driving have no assistance from her department - no financial assistance - for on-Island travel. This question has been raised with me by a young mother in my Parish who has 2 young children under 5 and who finds it very difficult managing day-to-day activities such as taking her children to school, collecting them from school. She works with her husband to manage tasks such as shopping and medical visits, but it is not easy for her. My question to the Minister is: how does the Minister for Health and Social Services expect this lady and others with those medical conditions that are not controlled by medication to travel around the Island undertaking day-to-day tasks with ease and in a timely manner?

**The Deputy of Trinity:**

I fully appreciate the difficulty that this young lady has and I have been in correspondence with her. We can provide transport for health needs. There are many conditions where people are unable to drive: if you are blind, if you have a stroke, dementia, amputees, *et cetera*. It is unsustainable for Health and Social Services to be providing financial help to someone who wishes to get around the Island, understanding that it is an important issue. But there is transport there if the person and the carer or whatever needs to come to any hospital outpatient appointments or elective surgery or even in an emergency. The transport is there for them. Regarding the financial needs, that sits with the Social Security Department.

**3.7.2 Deputy M. Tadier of St. Brelade:**

I do not want to stray too far from the question, but if we include foreign treatment in this where people have to go to the U.K. is it fair when ...

**The Bailiff:**

I am sorry, I think Deputy that is ...

**Deputy M. Tadier:**

I will limit it to local transport, but I think the principles remain the same. Is it fair that transport is means tested to get to the point of health care when health care itself is not means tested? Is that logical and consistent?

**The Deputy of Trinity:**

That is another issue. Some of it is means tested. If I remember rightly, the threshold is very high. Do not quote me on this but I think it is in the region of £60,000 or £70,000 income. This is for patients travelling overseas. If somebody in Jersey needs to come to an outpatient appointment or surgery or a planned admission and they cannot drive for one reason or another or a member of the family cannot bring them in, transport is available free of charge.

**3.8 Deputy M.R. Higgins of the Minister for Home Affairs regarding the States of Jersey Police internet investigations into cyber bullying complaints:**

Will the Minister give Members an update on the work of the police internet investigators who took up their post on 31st January 2014 and inform Members how many cyber bullying complaints have been received since the beginning of 2014 and how they have been dealt with, including how many prosecutions have been brought against the perpetrators of these acts and the penalties imposed on those convicted of an offence?

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

The States of Jersey Police internet investigator has been actively involved with reports of cyber bullying - currently recorded as harassment - and has also assisted in a wide range of other cyber-dependent and cyber-enabled crimes reported to the organisation - for example, drugs importations, assaults, road traffic offences and sudden deaths, *et cetera* - and in the development of online intelligence, thereby helping the force to most effectively prioritise their work. This particular role is linked to the continuing force-wide development of all cyber-related matters, a theme that features as a high risk, high harm focus within strategic assessment and one that continues to increasingly impact upon all areas of policing. Since 31st January 2014, the States of Jersey Police have recorded 9 criminal reports of either harassment or bullying over the internet. Of these 9 allegations, 3 of the alleged offenders received words of advice from the police. In 2 others, harassment notices were served. Two offenders were charged and prosecuted with the offence of harassment, one receiving a 12-month binding-over order, the other a 6-month binding-over order and a 2-year restraining order. The other 2 cases are currently under investigation.

**3.8.1 Deputy M.R. Higgins:**

A supplementary. Just looking at his previous answer given to Deputy Trevor Pitman on 10th December, I see he has included some of those figures, which happened in the 6 months prior to the investigator coming forward. The Minister has just said that this officer has a range of other duties. Cyber bullying is a particularly horrendous offence. It has led to the death of a number of people in this Island. Does he not feel that it should be highly prioritised given the damage that can be done? What can he tell the States about a prolific offender who has been repeatedly reported to the police who has yet not been brought before trial, a person who brought, with others, a data protection

complaint against former Senator Stuart Syvret? That person is going around this Island causing all sorts of mayhem, going to employers, telling them that people have committed all sorts of acts and so on, and yet the police are taking no action. So, 2 questions: should a cyber investigator first of all be giving a much higher priority to cyber bullying and, secondly, what can he tell us about this prolific offender and the lack of action?

**Senator B.I. Le Marquand:**

In relation to the alleged prolific offender, I know absolutely nothing. It is not my role as Minister to get involved in operational matters. Indeed, since we now have a Police Authority I am even further removed from operational matters and my role is setting policy and priority. I recognise and have recognised that there is a priority area and hence why this role has been set up, but hence my fairly lengthy answer to demonstrate this is not just a question of employing one person who is going to play a particular role. We are trying to change the culture of the police force so that there is a general awareness. In the last 6 months, a States of Jersey Police cyber policing strategy and action plan has been developed under the chairmanship of the Superintendent of Crime Services. A programme of work subsequently commissioned involves all members of the organisation. Partnership working features heavily in the plan. One area of particular relevance has been the development of appropriate legislation to cater for those instances of grossly offensive or abusive messages that are not captured by current harassment legislation. That work is being led not by Home Affairs but by Economic Development, however supported by the States of Jersey Police and the Law Officers' Department.

**3.8.2 Deputy M.R. Higgins:**

It is all very well the Minister ... in fact, he has answered a question on this before and he has mentioned that Economic Development is leading on this and earlier he expressed dissatisfaction at it. Is the Minister pleased with the progress of the work of the Economic Development Department and how soon does he expect legislation or new policies to be brought forward? In fact, can I ask one other thing ...

**The Bailiff:**

Well, no ...

**Deputy M.R. Higgins:**

No, it is in answer to his question. He said that they had come up with a strategy. When is it going to be on their website so we can all see what the strategy is as well?

**Senator B.I. Le Marquand:**

I have not seen the draft strategy myself and will be interested to look at that and to see that finalised. In relation to the piece of legislation, I have previously expressed disappointment that it was not Home Affairs who were running with this as a priority because the danger is with it being with E.D.D. (Economic Development Department) that it will not get the same high priority as it would have been given by Home Affairs.

**Deputy M.R. Higgins:**

I did ask the question was the Minister satisfied with the progress of E.D.D. at the present time.

**Senator B.I. Le Marquand:**

I am unaware of the progress they have made, in fact. They have not been talking to me about it.



### **3.9 Senator S.C. Ferguson of the Minister for Planning and Environment regarding efforts to deal with Japanese Knotweed:**

Following the launch by the Environment Department of the app on which to record occurrences of Japanese Knotweed and in light of the considerable effort which has been made by the public to report occurrences of it, what action is the department taking to deal with the problem of this pernicious weed, which can invalidate insurance cover for properties?

[10:30]

#### **Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment):**

The Environment Department is continuing to develop its smartphone application and has created a G.I.S. (Geographic Information Systems) layer detailing the location of all reported occurrences. Department officers will be verifying these sites over the next months to gauge the size of the problem. Japanese Knotweed on all property under the department's administration has for several years been managed and success has been achieved in eradicating it from a number of locations in St. Ouen and St. Brelade. The department also requires developers to deal with knotweed problems on development sites when the problem is known to exist. At the moment, private landowners deal with the problem themselves. However, there are some 5 policy measures that I am considering with department officers in order to further control the problem and would be happy to outline those policy measures if I receive a supplementary question from the Senator.

#### **3.9.1 Senator S.C. Ferguson:**

There are considerable infestations around St. Brelade, at Sandybrook and on the Grande Route de St. Clement, which I pass frequently, and there has been no attempt to deal with these. Why is there not a proper publicised programme to deal with this problem and to assist extermination of it? This has been a problem for 2 or 3 years to my knowledge, and nothing appears to have been done apart from an app.

#### **Deputy R.C. Duhamel:**

The 5 policy measures which I mentioned are, first and foremost, to change the public perception of the plant. At the moment, Itadori, which is the Japanese name of the plant, is an edible plant, although the public do not realise this. The spring shoots are edible and a delicacy in restaurants. It may well be something that our tourism industry wishes to take up seriously. Secondly, the leaves of the plant are used as an animal fodder and again, working with the agricultural industry, there is perhaps a free source of animal food just waiting to be harvested. Along similar lines, free food foraging is something that is on the up and up and indeed ...

#### **The Bailiff:**

The question, Minister, was what are you going to do. **[Laughter]** Rather than the edible qualities of it, it is what you are going to do about eradicating it.

#### **Deputy R.C. Duhamel:**

Eat it. **[Laughter]** Eating the problem is one way to beat it. Of course, it depends on who is eating it and this is why I am outlining the process. It could be eaten by humans. It could be eaten by animals. Another bio-control measure was introduced in the U.K. in 2010 when the first licence was given to an aphid which specialises in eating the Japanese Knotweed, Aphalara Itadori. That is a plant control measure ...

#### **The Bailiff:**

I am sorry, Minister, this is far too long. Ministers must answer concisely as there are a lot of questions to be asked, so please answer the question posed concisely.

**Deputy R.C. Duhamel:**

Okay. Well, there is biological control. There is physical removal. That obviously can only be undertaken when the sites have been readily identified, which is the process that is being undertaken at the moment. There is treatment with injection with a rather noxious herbicide, Glyphosate, which is not necessarily the best environmental method to be pursued. The application of Glyphosate for knotweed eradication has been linked at the moment with increase in autism and other medical ailments, so it is not necessarily the best way forward. The final solution measure is to add this particular plant to the list of injurious weeds and, therefore, by regulation place a burden on the owner of the plants on their own site to eradicate them themselves.

**The Bailiff:**

Minister, that was an extraordinarily lengthy answer. You must please make them more concise. That is what Standing Orders say.

**3.9.2 Deputy G.C.L. Baudains:**

From the Minister's reply, I get the impression that he is treating this rather in a similar manner to the ragwort problem. Can he assure us that his department is proactive in trying to exterminate this weed by physical means as opposed to perhaps putting it in his sandwiches or whatever he intends doing?

**Deputy R.C. Duhamel:**

I thought I had done that, but in order to eradicate the problem you have to know where the sites are and the extent of the problem. That work is being undertaken first and foremost before control measures of whatever type are put into place.

**3.9.3 Deputy J.H. Young:**

The Minister has told us about opportunities to eat this weed and so on and inject it with nasty poisons which will pollute our water supply. What is he going to do to provide householders and homeowners with some advice on practical measures of what they can do if they are unfortunate enough to have this weed on their property?

**Deputy R.C. Duhamel:**

The department has already done that. There are a number of department leaflets, management advisory booklets that the department have on their internet site, and Japanese Knotweed is one of them. There are several references to the householder if they do have infestations of this particular plant indicating the kind of measures that are in operation at the moment. There is support advice from Transport and Technical Services and, indeed, from the Department of the Environment.

**3.9.4 Senator S.C. Ferguson:**

The Minister says he has lots of brochures and people can read them. If he does not publicise it, what is he going to do for the property owner who finds it growing up through the floor of his house, which is what will happen?

**Deputy R.C. Duhamel:**

As I mentioned, the plant at the moment is not designated as an injurious weed, although I do agree that because of the vigour of the plant it can pose insurance problems for property holders if, indeed, these plants find themselves growing under the tarmac or under the foundations of buildings. But that really at the moment is a matter for private landowners. Should the reporting exercise report infestations on a level that would point to a change in the law to allow the States to ramp-up its control measures to eradicate the problem, then that is obviously something that I will

be looking into doing. At the moment, the work is not complete and until it is we cannot go to the next measures.

**3.9.5 Senator S.C. Ferguson:**

The work has been going on for 3 years. What is the Minister going to do?

**Deputy R.C. Duhamel:**

I think I have outlined that.

**3.10 Deputy M. Tadier of the Minister for Social Security regarding changes to the Social security contributions cap to fund maternity leave:**

Will the Minister give consideration to lifting or increasing the cap on social security contributions for those earning over £45,336 and £150,000 per annum respectively in order to fund 26 weeks of statutory maternity leave?

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

I just want to clarify with the Deputy that he is referring to the contribution limits currently in place. These were increased in 2014 and what is known as the standard earnings limit is £47,016 and the upper earnings limit is now £155,568. Members will recall that the recently published actuarial review of the Social Security Fund identified that the annual cost of benefits and pensions paid out would exceed the contribution income received into the fund within the next 2 years. The actuary has recommended that action is taken to adjust the social security scheme following the next review, which will take place during 2016. Possible actions include increasing the rate of contributions, increasing the ceiling for contributions, reducing the generosity of pensions or benefits, or drawing-down on the Reserve Fund. The Deputy's question refers to the funding of 26 weeks of statutory maternity leave. The current maternity allowance provides a standard rate of benefit for 18 weeks. My intention is to introduce family friendly rights into employment legislation from September 2015 and then to monitor the impact of the new rights for the first 12 months and to review the situation in 2016. It is, therefore, sensible to coordinate these 2 reviews and to ensure that any changes proposed following the next actuarial review consider the option of additional funding for maternity allowance.

**3.10.1 Deputy M. Tadier:**

I based my figures on figures given to me in 2013 so I appreciate the updated figures. The essential question is for the Minister: does he think it is fair that on the one hand if we do not give women - or fathers for that matter - sufficient leave they may feel short-changed and it may have consequences, but on the other hand in order to give generous leave to parents, which some of us feel is desirable, it should not fall as a burden on employers themselves. So the only way to do it really is to fund it centrally from Government. Will the Minister consider bringing forward the review to look at funding it from a progressively based, social security contributed, funded mechanism rather than either short-changing parents themselves or putting an extra burden on employers?

**Senator F. du H. Le Gresley:**

There were a few questions within that. The burden on employers was the first point. My proposals are that the first 2 weeks of maternity leave are compulsory and that they are paid by the employer at their normal wage rate, offset by the maternity allowance if the employee is eligible for maternity allowance. I agree and the Employment Forum recommended in the second stage of family friendly legislation that we should be moving towards statutory maternity pay in the same

way as the U.K. has statutory maternity pay for I think the first 9 weeks of maternity leave. That would be expensive because if we were to model it on the U.K. it would be at 90 per cent of the employee's wages and that would be a considerable cost to the Social Security Fund, which would inevitably mean a substantial increase in contributions going forward. I do not dispute, and I think the Deputy is aware that I believe the Social Security Fund can be funded in a number of ways. We could remove the standard earnings limit, similar to what Guernsey has done, or we could make higher earners pay more than the upper earnings limit, but all these things would have to be considered on the basis of the next actuarial review.

**3.10.2 Deputy J.H. Young:**

The Minister has announced effectively I think we are going to have a review of the contributions to the fund. Keeping it in simple terms, could he give us a basic split between what proportion of social security contributions go into pensions and what goes into the other benefits, including the maternity leave, as the Deputy has questioned? What proportion? How does it split out between those 2 important groups, pensions and others?

**Senator F. du H. Le Gresley:**

I am going to give a figure but I would have rather had notice of that question so I could give an accurate figure. My understanding is that pensions account for roughly 70 per cent of the total amount paid out in a year from the social security fund and the rest would be the other benefits, but if the Deputy gives me a minute I will confirm that.

**3.10.3 Deputy S.Y. Mézec:**

Getting to what I think is the point of Deputy Tadier's question, does the Minister believe that it is both fair and morally right that high earners should be paying more not just as an amount but as a percentage, too, and does he believe that if the wealthiest in Jersey were paying their fair share we would be able to afford these basic social democratic rights that most people across Europe enjoy, like free visits to the G.P. (General Practitioner) and maternity leave?

**Senator F. du H. Le Gresley:**

That sounded a bit like a speech. I do not dispute what the Deputy is saying there. The fact is the upper earnings limit is now £155,000 in round figures and, of course, the 2 per cent between the standard earnings limit and the upper earnings limit is only paid by the employer at the moment. There is room for bringing back the proposal for that 2 per cent to be paid by the employee as well. I think previous research has seen that there are not many people who are in the £155,000-plus earned income bracket, so I am not sure that it would produce the large sums of money that the Deputy perhaps is hoping, certainly not enough to start making free G.P. consultations for everybody. In relation to the previous questioner, the figure is 75 per cent of social security expenditure from the fund is for old-age pensions.

[10:45]

**3.10.4 Deputy M. Tadier:**

I thank the Minister for the answer, which I think was helpful. Given the fact that based on figures from his department currently those earning over £45,000 a year, or whatever the adjusted figure is, are paying proportionately less than most Islanders and given the fact that for every percentage point that we increase the social security above that rate it would yield roughly £7 million if it is done for both employers and employees, I would ask the Minister if he would consider whether that could be something which he sees as both a desirable and progressive route so that even if he is leaving his post that may be a message he wishes to send out to other States Members and the public.

**Senator F. du H. Le Gresley:**

I repeat we could go the Guernsey route, which is basically for employees to pay contributions up to the upper earnings limit, which I think in Guernsey is slightly lower than our current figure, or we could introduce the 2 per cent on employees between the standard earnings limit and upper limit, or we could introduce an increase in contributions across the board; numerous options. Equity would say that the first option is probably the one that we should heading towards.

**3.11 Deputy C.F. Labey of Grouville of the Minister for Transport and Technical Services regarding the retirement age for bus drivers:**

Could the Minister inform Members of the age at which bus drivers have to retire and could he also explain at what age bus drivers of school buses have to retire, and if there is a difference explain why?

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

Liberty Bus drivers retire from full-time driving at the normal retirement age of 65. This is consistent with the practice of the previous bus operators. Anyone over the age of 65 wishing to continue driving school bus services on a part-time basis may do so providing that they maintain a current public service vehicle badge. This obliges the individual to pass the annual medical examination to ensure their fitness and applies equally to coach drivers. As long as a driver is assessed as fit to drive a P.S.V. (public service vehicle) with a doctor, they will be employable.

**The Deputy of Grouville:**

I thank the Minister for his reply.

**3.12 Deputy S.Y. Mézec of the Minister for Home Affairs regarding the handling of offenders with mental illness and drug dependency:**

What steps, if any, is the Minister taking in co-operation with his Ministerial colleagues to divert more of the less serious offenders with mental illness and drug dependency into treatment rather than prison?

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

Presently through Home Affairs and through the Building a Safer Society strategy, the Health and Social Services Department Alcohol and Drug Service provide an arrest referral worker, working directly with the police, to identify and support people who have been arrested, who have been identified with either alcohol or drug misuse issues with a view to establishing early intervention with an appropriate therapeutic service. After that, it is really issues which relate to decisions made by a prosecutor or decisions made by a court. When a prosecutor is considering whether charges should be brought the prosecutor will consider whether, in the light of mental illness, it is in the public interest to bring charges. A court which is sentencing an individual should obtain background reports on the offender prior to sentencing to imprisonment and these may include psychological and/or psychiatric reports. They may also include assessments as to suitability for a treatment order in relation to a drug or alcohol addiction.

**3.12.1 Deputy S.Y. Mézec:**

Does the Minister agree that Jersey has a very poor track record of helping Islanders with mental health issues and does he agree that there is much more the Government, including his department, could be doing to help these people rather than punish them and their families?

**Senator B.I. Le Marquand:**

I think there are issues in relation to people with mental health in Jersey. One of the most difficult issues - which is once again highlighted in the recent excellent Scrutiny Report - is the lack of secure accommodation. This acts in 2 different ways. Firstly, it means that if a person who is mentally ill is taken to a place of safety, because of their mental illness, and for their protection, the police have powers to do this. In practice they are normally taken to a police cell, which is not ideal and of course that has been highlighted in relation to children, but applies also in relation to adults. Similarly, on sentencing the lack of secure accommodation for people who are mentally ill does lead to situations sometimes where people are sentenced to imprisonment and whereas it might be if there were other more secure options available the court might take a different route. Having said that, I am well aware of the difficulties faced by the Minister for Health and Social Services in this area, the costs of running such a secure unit and the difficulties because of the smallness of scale means you can only have one type with one level of security, whereas of course in the U.K. (United Kingdom) or elsewhere with larger catchment areas there is a whole variety of secure units. So there is an issue. There is an ongoing problem but my colleague has found that difficult to solve.

**3.12.2 Deputy M.R. Higgins:**

Following on from the Minister's answer, because the issue of mental health and offenders and prison, and the lack of facilities, has been going on for at least 8 years. In fact I think as long as I have been in the States. I know the Judiciary have mentioned on numerous occasions the failure of the Mental Health Law or the inadequacy of provision, that they are having to send someone to jail because there is nothing else, can the Minister tell us what he and his colleagues in the Council of Ministers have been doing, certainly in the last 3 years, and he was on the previous one, what they have done to try to alleviate this problem, and if not, if they have not tried to do anything what are they going to do about it now?

**Senator B.I. Le Marquand:**

The issues that I have described have been going on for much longer than that because my predecessor, as Magistrate, had a particular concern which he voiced on numerous occasions. I have had a number of meetings over the years with counterparts in Health to try to alleviate the situation in relation, particularly, to areas where people who are in prison become mentally ill and that mental illness persists. I have to say I think some improvements have been made here in relation to speeding-up assessment times in order to transfer such people to the U.K. where they can stay in a mental hospital during the duration. But it is a difficult problem. I have sought to press my colleague to make this a higher priority. I hope that the pressure now coming in in relation to the young people will demonstrate why it is essential to have such a secure facility. Having said, that, a secure facility is not going to solve all the problems because frankly sometimes people who are mentally ill also represent a serious danger to the public who will continue to commit offences and have to go into the criminal justice system for that reason.

**3.12.3 Deputy R.G. Le Hérisier:**

Could the Minister tell us that with the benefit of professional judgment how many people does he think are in the prison who would be better in mental health facilities?

**Senator B.I. Le Marquand:**

There are always some, I suppose is the answer, but that number will vary. There are different categories in this. There is the category I referred to before, which have serious and repetitive mental issues. Although they can be transferred short term to receive treatment in a hospital it is a recurring pattern. There are also a certain number of people who are frankly inadequate in a variety

of different ways and part of their inadequacy relates either to alcoholic abuse or mental illness, and who get shuffled between agencies and spend some of their time in a prison. The system has changed over the years. I can remember the days when such people would have been long-term patients in a mental hospital but the whole concept of care in the community and so on has led to a more risk-taking, if I can say, approach, which does work and enhance the life of many.

**3.12.4 Deputy S.Y. Mézec:**

I think it is quite apparent that the issues we have with mental health in Jersey require absolute urgent attention, so could I ask the Minister if he has any plans to do anything before the end of his term to perhaps maybe secure extra funding for something that could help that or bring forward proposals to change the policy so something can be done for these Islanders who are being failed?

**Senator B.I. Le Marquand:**

Of course I am a member both of the Children's Policy Group and the Adult Policy Group and via my membership on those I will seek to raise these issues. I think that these issues need to be looked at quite seriously, not just by one department, i.e. Health and Social Services, but across the board because of the cross-border aspects of them.

**3.13 Deputy G.C.L. Baudains of the Minister for Economic Development regarding the number of foot and vehicle passengers using Condor's Weymouth service in a full year:**

Would the Minister advise how many foot and vehicle passengers, on average, use Condor's Weymouth service in a full year?

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

During the period from 2009 to 2011, the sea route between Jersey and Weymouth carried an average of 100,000 passengers and 35,000 vehicles per annum. During the sudden closure of Weymouth in 2012 for essential repair work to its harbour wall passenger numbers fell to just 2,886 and 1,230 for vehicles. During the period when Weymouth was closed passengers and vehicles migrated to the alternative ports of Portsmouth and Poole. Overall the volumes to and from the U.K. have remained stable demonstrating that whether 2 or 3 ports are offered by the operator passengers with an interest in visiting Jersey will continue to travel from whichever port is available and is effectively marketed.

**3.13.1 Deputy G.C.L. Baudains:**

Given those numbers, does the Minister not agree that should the company decide to choose a ferry which can no longer enter that port a considerable number of people will be inconvenienced and therefore does he not believe that the company should in fact be looking to choose ferries that fit the port and not the other way round?

**Senator A.J.H. Maclean:**

No, I am afraid I do not agree with the Deputy. I think the statistics make it clear that during the period where we have had the opportunity to see in real time what might happen if Weymouth were not in operation, the numbers drop dramatically and in fact passengers migrated to both Poole and Portsmouth with virtually no loss in terms of passenger numbers. So I think that makes it clear as to what would happen in real time and, as such, I do not necessarily see there is a problem, although I have stated previously that the operator Condor have looked and continue to look at working with Weymouth in order to help them to facilitate the changes that might be necessary to the port facilities. But that is a considerable investment.

**3.13.2 Deputy R.G. Le Hérissier:**

Therefore the Minister can confirm that whether or not Weymouth remains a port of choice for Condor is utterly irrelevant to the final decision, which he will be taking by which date?

**Senator A.J.H. Maclean:**

I am not quite sure how the Deputy managed to weave that in. No, what I am saying is that we have had the opportunity to see what happens when Portsmouth is not in operation, it does not seem to affect the Island. There are obviously inconveniences, probably for a number of Islanders who like to go further west, but generally in terms of numbers there is not a great difference. As far as the agreement, I have said the Islands are negotiating with Condor with regard to a longer term agreement. Those negotiations have been to date constructive. We hope to be in a position to make an announcement by the end of this month, providing there are no showstoppers in the interim period.

**3.13.3 Deputy G.C.L. Baudains:**

Is the Minister not concerned that ... he mentioned Poole and Portsmouth but of course the fast ferries only go to Poole, not to Portsmouth, as far as I know. Is he not concerned that by doing away with Weymouth you end up with just one destination and then if there is an industrial infrastructure problem we have no fast ferry running at all or indeed by having one fast ferry you are replacing 2; if that should break down again, you have no fast ferry service at all. Is this not taking a huge gamble?

**Senator A.J.H. Maclean:**

I think I hopefully have made it clear that all parties are keen to see Weymouth continue. Nobody wants to see Weymouth close. However there are some practicalities around the cost of changes that will be necessary to the Weymouth Harbour. I can tell the Deputy and Members that, for example, Condor have a large number of staff at Weymouth and around that area so from their point of view, from a practical perspective, they would obviously like that port to remain open. Customer service that has been undertaken, however, do demonstrate that the balance of customers using the services seem to have a preference for Poole and/or Portsmouth. I take his points about risk to service but I think, all things considered, there are 2 options and I think they can adapt to facilitate the requirements in the future.

[11:00]

**3.14 The Connétable of St. John of the Minister for Economic Development regarding funding of the Jersey International Motoring Festival:**

Following the Jersey International Motoring Festival held during the weekend of 6th June would the Minister state whether an application was made to the Tourism Development Fund for a grant to assist in staging this event and, if so, would he give details of amounts of the grant, and if no grant was given would he give the reasons why?

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

An application in the name of the Jersey International Motoring Festival Limited was received on 10th April 2014 for an event that was to be held less than 8 weeks later running between 5th and 9th June. The application was not straightforward however, as it was for a significant grant sum and covered an extended period, not just for 2014 but also annually through to 2018. As Members would expect, the Tourism Development Panel - an independent panel - undertake rigorous and comprehensive examination of all applications prior to any approvals. The panel continued their analysis of the application for the extended period at its meeting on 12th June. As a result of this, further detailed information is being sought from the applicant. The Motoring Festival has made



previous applications to the Tourism Development Fund and was awarded a grant in 2010. They are therefore aware of the process which is applied and the timescales which are necessary.

**3.14.1 The Connétable of St. John:**

Is the Minister being a bit disingenuous here? Given that the Festival themselves wrote to the Tourism Development Fund in January, and in fact received an email from the Minister on 25th March to the effect that the Board of the Tourism Development Fund was in the process of being replaced. A number of members were being replaced. Would he like to review the answer he has just given, given that there had been a number of contacts between the International Motoring Festival Committee and the department? Would he like to review the answer he has just given?

**Senator A.J.H. Maclean:**

No, the answer that I gave was perfectly accurate. I can elaborate on the comments that the Connétable has just made with regard to the Board. Yes, there have been some changes to the Tourism Development Fund Board. That did not affect the operation of the Board. New members have been recruited, some members have retired, that is a natural course of event that happens with organisations. As far as the particular International Motoring Festival Limited is concerned, as I pointed out, they have applied previously to the T.D.F. (Tourism Development Fund) over a number of years. There have been instances where they have not supplied enough detail. Contact, I can say to the Connétable, is not enough. There has got to be far more detail than just contact if the Tourism Development Fund or any public body dealing with public funds is to deal with those funds effectively and go through an appropriate process. The formal application was not received, as I have already pointed out, until 10th April, less than 8 weeks before the event.

**3.14.2 The Connétable of St. John:**

Given the Minister's reply, and knowing full well that the problems he had within his Tourism Investment Fund, yet money was able to be found for the rugby club over that period of time, and for Durrells, it seems odd to me that some society who are trying to bring people into this Island and fill our hotels are not being supported by the department. If the Society were to put a retrospective application in would it be considered favourably?

**Senator A.J.H. Maclean:**

No, to the last point. That would be against the terms of the fund. It was up to the organisation, which has applied before... it has been successful before in 2010 with regard to grants from the Tourism Development Fund, then that would be perfectly acceptable. They knew the timescales that were necessary. As far as the other points about who does and does not receive grants from the Tourism Development Fund, I think the fund and the panel do an exceptionally good job. In fact in 2013 they had 39 applications for a total of over £1.6 million, which came in. Some really good awards were made as a result of that and I think that is a positive thing. I would also add, I think the Motoring Festival is very positive. I think the Motoring Festival this year, yet again, was a fabulous event. I think it can grow and I think the application that they put in for a significant grant covering from 2014 to 2018 can move the Festival on to another level altogether. I think that is good for Jersey, I think it is good for tourism. I am sure the Connétable will agree with it, and I would very much hope that if the detail is applicable that the Tourism Development Fund may be in a position to approve that and that would be good.

**The Connétable of St. John:**

Excuse me, Sir, there were lights over that side of the Chamber ready for questions.

**The Bailiff:**

I see. I am sorry I did not see Deputy Vallois' question. Never mind, I asked you to do the final question.

**3.15 Senator S.C. Ferguson of the H.M. Attorney General regarding the reimbursement of those defrauded by the principals in the Sunstone and De Lec case:**

Could the Attorney General explain whether a "Pauline action" could have been brought against the principals in the Sunstone and De Lec case so that the assets might be traced and used to reimburse those who were defrauded and, if so, why was this not done?

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

Pauline actions are proceedings commenced by a creditor to set aside a prior transaction undertaken by a debtor taken by that debtor in order to defraud his creditors. It is a private law remedy which may be available to a creditor in private law proceedings. The action is not available to a prosecuting authority in a public prosecution. While I am not aware that any of the investors in the Sunstone and De Lec case considered any such relief I would not expect to be told, as whatever private law steps were taken by any of them would be exclusively a matter for them and their own lawyers.

**3.15.1 Senator S.C. Ferguson:**

Would there be a time limit and would legal aid be applicable in this case?

**The Attorney General:**

I am afraid I am not sure of the prescription period or limitation period applicable to Pauline actions. There would be, in my view, some form of time limit, even though it relates to a fraud, but that is a matter that I cannot give definitive advice on. As to the availability of legal aid, if there is a case that can be brought within the Island then if the applicants qualify for legal aid there is no reason why they should not receive legal aid to bring it.

**The Bailiff:**

Senator, I seem to remember sitting on a case; I think it is 10 years.

**Senator S.C. Ferguson:**

I thank the Attorney General and I thank you too, Sir.

**3.15.2 Deputy J.H. Young:**

The Attorney General has answered that it is a private matter and not one that he can get involved in. Could he not tell us: is there not any procedure available where a group of creditors, such as this group, can be assisted by Government to bring a group action in order to seek access to these private assets rather than us have to eventually have to deal with compensation out of taxpayers' funds? Is there not a procedure available for the public to help through his department or whatever?

**The Attorney General:**

No. It is possible for a group of individuals if they have the same legal interest to bring what is termed a class action and to group together for the purposes of bringing private law proceedings, but it is not the function of the Law Officers' Department to assist with private law proceedings. We are to there to deal with a public law function and not to vindicate private law rights on behalf of individuals.

### **3.16 Deputy R.G. Le Hérissier of the Chairman of the Privileges and Procedures Committee regarding the credibility of the referendum proposed for October 2014:**

Given the apparent inability of P.P.C. (Privileges and Procedures Committee) to promote the relevant legislation - perhaps overtaken by the report today - as explained in a written answer on 3rd June 2014, what alternative steps, if any, is the committee taking to ensure the credibility of the referendum proposed for October 2014?

#### **Deputy J.M. Maçon of St. Saviour (Chairman, Privileges and Procedures Committee):**

Members will note that P.P.C. today have lodged the necessary Draft Referendum Act to enable the referendum agreed in November 2013 to take place in October if the Act is approved by the States in July. P.P.C. has also presented today a report to the States setting out the outcome of our review of the Referendum Law, in response to Deputy Le Hérissier's proposition that was adopted earlier this year. Our report sets out a number of ways in which referenda could be more effective in the future and recommendation 2 is particularly relevant. P.P.C. recommends that a referendum should, if at all possible, be held on the same day as a general election in Jersey where the electoral turnouts will be at the highest. If as many or nearly as many people vote in the referendum in October as generally participate in the Island-wide elections, the result will have considerable weight and we hope that in this mechanism that will give greater credibility to any referendum ongoing in the future.

#### **3.16.1 Deputy R.G. Le Hérissier:**

Given the report of P.P.C., which obviously not everyone has read, could the Chairman elaborate upon why a percentage has not been accepted? He argues that it will simply follow that of the turnout. Why then does he support the States apparently having a threshold for the voting in of constitutional provisions?

#### **Deputy J.M. Maçon:**

When we looked at the different examples internationally there does tend to be a discrepancy between. When referendums are held on the same day as general elections they tend not to be a threshold, with the understanding that it is very difficult for elect parliamentarians to dismiss something that is brought in at the same time with the same mandate as they have been elected, for example, which is why P.P.C. suggested that holding a referendum should occur at the same time as general elections. In our report it does go on to analyse how thresholds could be woven-in if that was deemed desirable should a referendum be held outside of a general election, but P.P.C. is of the opinion that referendums should be held at the same time.

#### **3.16.2 Deputy S.Y. Mézec:**

Does the Chairman agree with me that rather than dumbing-down and fuelling cynicism on this referendum that this proposition is excellent and States Members from across the board should be backing this and backing a yes vote so that we can finally end this issue that has plagued Jersey politics for so many years?

#### **Deputy J.M. Maçon:**

Ideally, yes, but Members will have to make their own mind. What I would hope is that - regardless of what individual Members' opinions are - they would agree that the public should have the right to vote on the Clothier proposals and get this issue sorted because if we do not it will come back to this Assembly time and time again. It is better just to put it to bed one way or the other and get it sorted.

#### **3.16.3 Senator I.J. Gorst:**

Could the Chairman explain in his view whether he thinks bullet point 3 means that we will have single seat constituencies or more than one-seat constituencies, and how does he see that interrelationship working?

**Deputy J.M. Maçon:**

With regards to bullet point 3 of the actual referendum question. My committee did discuss when we went out to focus groups about how it should be performed. What came back was the understanding of what single-seat constituency meant out there to the wider public was not well understood, and therefore going back over what was in the Clothier report, and we analysed it again, we saw that in the report while the issue is not specifically addressed, reading the report it does suggest that when Clothier looked at the model which the States currently have, redistributing the seats among the Parishes in the form that we have currently does seem to be it. However, I would draw Members' attention to the line in our report where we suggest this particular aspect should be dealt with by an independent boundaries commission to look at best international practice and design the seats accordingly because we found that, again going to the focus groups, if we were to drill down - and I appreciate I am not presenting the Referendum Act at the moment - into exactly where the constituency lines are going to be that causes people to focus on what street they are in rather than the general principle, which P.P.C. was minded was more important to settle.

**3.16.4 Connétable J. Gallichan of St. Mary:**

Following on from what the Chairman has just said: can he confirm whether all members of the Island will have the same number of votes because I cannot see how this referendum question makes that clear?

**Deputy J.M. Maçon:**

No, I cannot confirm that at this time. That would be for the independent boundaries commission to decide that question, should the States adopt this particular way forward, and they may choose not to do so. But I hope that they would.

[11:15]

**3.16.5 Deputy R.G. Le Hérisier:**

Again, I echo maybe what was implicit in Deputy Mézec's comments. It is a good report in many respects although they laboured mightily to reach the commencement decision – over-mightily. Could the Chairman confirm that irrespective of whether there is a very tight result they will be seeking a referendum based on the principle of a binding vote and a vote which takes place at the same time as the general election on the assumption that there will be a higher turnout? Can he confirm that those 2 principles will be supported in the proposed Referendum Act?

**Deputy J.M. Maçon:**

If I take them in reverse order: yes, for the second one because we have asked for the referendum to be held on the same day as the general election. We would hope that it would be an election issue. We would hope that candidates would be drilled on that particular aspect to give commitments one way or the other, but as the way it is currently formed, as we explained in our report to States Members, will be free to vote as they see with their conscience but we would hope that with the commitments made during an election Members would stick to those. As I am sure many of us will do and continue to do.

**3.16.6 Deputy R.G. Le Hérisier:**

I am a little, as ever, confused. Is the committee going to propose that the referendum through the commencement route that it has outlined, that it be a binding referendum?

**Deputy J.M. Maçon:**

As explained in our report. The only way to do that was to have this Assembly pass legislation with the caveat of it being subject to a commencement date. Unfortunately my committee has not been able to do that in the timeframe that we have, and therefore we are not, at this time, able to pursue that route, although in future my committee has suggested in our report that that is the way forward that we should go. But unfortunately at this time we cannot do that.

**3.17 Deputy M.R. Higgins of the Minister for Home affairs regarding the investigation of cases of alleged child abuse and child protection issues by the States of Jersey Police:**

Can the Minister assure Members and the public that all cases of alleged child abuse and child protection issues are fully investigated by the States of Jersey Police and that they liaise fully with the various child protection bodies, the Law Officers' Department and the Judiciary?

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

All cases of alleged child abuse are fully investigated by the States of Jersey Police working whenever appropriate in conjunction with other child protection bodies. Where appropriate, a report is then produced for the consideration of prosecutor from the Law Officers' Department, which department will decide as to whether there is sufficient evidence or not to bring a prosecution. The States of Jersey Police work closely with the other child protection bodies in relation to child protection issues. There is a very effective system known as M.A.S.H. (Multi-Agency Safeguarding Hub) for sharing of information on such matters. The role of the Judiciary is different. It is to judge matters which are within their area of responsibility, and so they are not involved in relation to such matters unless called upon to make a decision.

**3.17.1 Deputy M.R. Higgins:**

Can I ask the Minister why it is then that the States of Jersey Police who investigated a case of concern regarding child protection, and botched it because they did not review the evidence fully, made a report to the child protection agencies which went to the Judiciary who made decisions have refused to date to review that evidence and provide the information to the various child protection agencies and to the Judiciary? My question is: how can we have confidence in the States of Jersey Police in their investigations when first of all they do not review evidence that was on a video clip, that was approximately 6 hours long? They must have got tired at 5½ hours because they did not watch the last half hour, which showed a sex act between a couple who were unmarried with a young child present and one could argue almost participating. That information was not passed on to the child protection body nor to the court. At the present time, the States Police are refusing to correct that information and pass it on. Will the Minister investigate this and does he think it is acceptable?

**Senator B.I. Le Marquand:**

Deputy Higgins, over the years, has a habit of asking me general questions, which I answer most assiduously, and then following up with particular allegations in relation to particular matters of which I know absolutely nothing. I would urge him on such occasions to email me with details of the matter. All Members who have done that in relation to various concerns know what my practice is. I will then forward on without comment a copy of the email to the Chief Officer address and it will then be forwarded through, and I will then seek to check that there is a proper response to that. But I cannot deal with such matters on the Assembly floor, particularly when I have absolutely no detail. I have no idea whether what he is saying is correct or not.

**3.17.2 Deputy M.R. Higgins:**

Point of information, this matter was first raised by former Deputy Pitman to the Minister for Home Affairs and this matter has been going on ever since. What I am saying is, information is being held back by the States of Jersey Police, they have not corrected the records. So both the child protection body and the Judiciary do not have full information. They made information based on the fact there was no evidence of a child protection issue because the police had not investigated properly. I am asking the Minister, will he go back now - I will give him the names and all the rest of it - and correct the situation? It is totally unacceptable.

**Senator B.I. Le Marquand:**

If I could be provided with names in relation to a certain case I will pass that on in an appropriate manner to the police, and I will then seek to ensure that they deal with it in an appropriate manner, but I cannot do anything without knowledge of individual names and matters.

**3.17.3 Deputy R.G. Le Hérissier:**

On a more general point, could the Minister assure the House that when a police investigation has been carried out, and irrespective of whether or not it proceeds to prosecution, do the police write a report identifying any issues they feel, while not within their purview, need to be followed up by other agencies related to that investigation? Do they write such a report and reflect upon what has come up within that investigation?

**Senator B.I. Le Marquand:**

I tried in my answer to distinguish between the criminal aspects, which goes down a particular route, and the issue of concerns which may be raised in relation to a matter even though it does not lead to a criminal prosecution. That is where there is a sharing of information and a sharing of concerns with other agencies because although there may not be sufficient evidence for a criminal prosecution there may be a need for agencies to take action in some form in order to protect the children involved.

**3.17.4 Deputy R.G. Le Hérissier:**

Can the Minister confirm that such reports are written and he is fully convinced that they are as robust as they should be?

**Senator B.I. Le Marquand:**

I do not know whether this happens in the form of a formal written report or whether it happens in terms of case conferences and meetings of interested parties because there is a very good system now in place in relation to that which has certain initials which I cannot remember. But for sharing information among officers at that sort of level, that is a much more effective way of doing things than writing formal reports, which can take ages to produce and may delay the information getting there.

**3.17.5 Deputy M.R. Higgins:**

Just following up on the Minister's last answer. Will the Minister not confirm the information the panel get is only as good as the information they are given? If they are given inaccurate information and that information is not corrected that is totally unacceptable; would the Minister agree with that?

**Senator B.I. Le Marquand:**

Any agency can only act on information which they get and it is necessary that they get the best available information. I can only agree with that, yes.

**3.18 Deputy M. Tadier of the Chairman of the Education and Home Affairs Scrutiny Panel regarding the establishment of a Dog Warden role and the introduction of on-the-spot fines for fouling**

Would the Chairman state what action, if any, his panel is taking to ensure the implementation of the recommendation in relation to dog fouling of the Education and Home Affairs Scrutiny Report of 18th July 2011, which in section 3.3 recommended that the Minister for Home Affairs should work with the police and Parishes to establish a Dog Warden role; and consider on-the-spot fines for fouling?

**Connétable S.W. Pallett of St. Brelade (Chairman, Education and Home Affairs Scrutiny Panel):**

I thank the Deputy for his question. It is a very important issue. The panel obviously recognises the emotive concerns and environmental problems caused by irresponsible dog owners, but to specifically answer the question. The current Education and Home Affairs Panel has not taken any action at this time to ensure that the implementation of the recommendation, and does not plan to do so. It is currently focused on issues that it considers to be of higher importance at this time.

**3.18.1 Deputy M. Tadier:**

What are those issues that they are focusing on which are of higher importance?

**The Connétable of St. Brelade:**

Current legislation, as we have been working closely with the Minister for Home Affairs in regards to the Draft Explosives Law, and a current review into the Trackers Apprenticeship programme, and a forthcoming review into the Youth Service.

**3.18.2 Deputy S. Power:**

Would the Chairman agree with me that the issue of dog fouling on beaches may be a minor issue and that most dog owners, so far as he is aware, are quite conscientious in dealing with this issue?

**The Connétable of St. Brelade:**

Absolutely. It is a small minority of dog owners that make life very difficult for the few, like myself, that take care when they do walk their dogs on the beaches and elsewhere. But just to put people's minds at ease. Although this particular panel is not looking at this at the present time, subject to a question last November from the Deputy in regards to dog fouling, when it was stated by the Minister for Home Affairs that he had already spoken to myself about taking this to the Comité des Connétables, I can say that since that time work has been undertaken by the Comité des Connétables on these and other associated matters. I can assure and I am understood to believe that a period of public consultation is to be undertaken very soon.

**3.18.3 Deputy R.G. Le Hérissier:**

It is sometimes the custom that Scrutiny Panels have a pause for thought on issues, could the Chairman say whether he will revisit the issue and, for example, look at the matter of walking dogs on the beach during the summer, of which there has been some recent publicity? Or does he think that is a barking proposition?

**The Connétable of St. Brelade:**

I think there is a move at the moment from a group to go down exactly that route, and they contacted myself yesterday in regard to this matter. I think it is something that needs to be taken rather than the Scrutiny Panel, to maybe the Comité des Connétables for their review and consideration.

### **3.18.4 Senator L.J. Farnham:**

I am myself a dog owner, I walk my dog regularly on the beach. I am conscientious. But would the Chairman not agree that the majority of mess on the beaches of Jersey are made by humans themselves who tend not to clean up after them. **[Approbation]** Not the dogs. Would he agree that use of such resource for a Dog Warden would be best put in to making sure people clean up after them and if they do not, fining them?

#### **The Connétable of St. Brelade:**

In specific relation to that, the consultation that is being considered will not just look at dog fouling. It also will be considering general littering as well, but it would be wrong for me to speak on behalf of the committee. The Chairman is not here today and I think it is best that the Chairman himself speaks on this subject. But, as I say, work on this has been undertaken. It will be forthcoming very soon.

### **3.18.5 Deputy M. Tadier:**

I obviously fully endorse the comments that most dog owners are acting in a correct way and it is a minority. Nonetheless it was a key finding of the Scrutiny Panel that this was a serious issue both for the public and also for, I think, States Members, *et cetera*. Does the Chairman accept that the issue is not the fact that there are not regulations in place, it is the fact that they are not enforced and it is important that we find a way to enforce regulations that already exist in an effective way rather than necessarily introducing new laws?

#### **The Connétable of St. Brelade:**

As the Deputy knows, the actual recommendations were rejected by the Minister for Home Affairs at the time. In terms of enforcement, enforcement is an issue. I think that is something that the Comité des Connétables have been aware for some time. Policing it, from my own experiences, as a Centenier and a Constable's officer, is very difficult. It is the way it is dealt with. It can be a very long-winded process taking it through a Parish Hall Inquiry system. I think it does need to be looked at other ways around dealing with this, and fixed penalty notices and on-the-spot fines were mentioned in that report. Again, it is something that will be part of the consultation that the committee will be bringing forward in the very near future.

### **3.19 Deputy S. Power of the Minister for Economic Development regarding the contractual agreement with Condor:**

Returning to one of my interested subjects. Can the Minister confirm that if he signs, what I think is now a 10-year agreement with Condor, he will ensure with his Guernsey colleagues that this does not restrict any new operator from providing a roll-on, roll-off freight or passenger service from any other port in the U.K. or France and can he confirm whether there is any financial grant, subsidy or loan involved in any acquisition of a new Condor vessel?

[11:30]

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

The current agreement in place with Condor Ferries is not an exclusive one and I do not expect any new agreement to deviate from this position. This non-exclusive agreement allows an approach by another operator to compete, provided of course it is committed to provide similar levels of service and capacities required by both Jersey and Guernsey. As Members will appreciate, we wish to avoid cherry-picking our services as this is not commercially sustainable in the long term. To prevent this we have defined a market scope to include a northern route car, passenger and



R.O./R.O. (roll-on/roll-off) freight service with a car, passenger provided on the southern route. Should potential operators wish to compete on these services, they must agree to deploy suitable year round capacity to cater for the demands across all of these sectors. I can also confirm to Members that no financial grants or subsidies have been offered to Condor Ferries in relation to the acquisition of any new vessel. I can also confirm that although negotiations are continuing constructively there is no intention to offer Condor an agreement as long as 15 years, as originally suggested in the Deputy's question.

**3.19.1 Deputy S. Power:**

I had done a little research on this and my next question is based on that. Is it normal for a Port Authority, such as the Port of Jersey, to involve itself to such an extent in ship acquisition or ship charter and have its timescale dictated to by the operator?

**Senator A.J.H. Maclean:**

I am not entirely sure of the thrust of the question because the Ports of Jersey are certainly not involved in any potential acquisition by Condor, simply of a new vessel, that is the 102 that has been well-publicised. Quite simply, Condor have said if they are going to make investments in our sea routes, including the 102, but for the length of a much longer agreement, they would need to get a return on a significant investment, they would need to have a long-term agreement with regard to that. So our focus has purely been the Ports of Jersey on negotiating a deal, together with Guernsey, that is in the best interest of the Island.

**Deputy R.G. Le Hérissier:**

Notwithstanding the excellent work the Minister's department has done in trying to promote the reinstatement of Guernsey day trips and restarting inter-Island sports trips, which have suffered, could he acknowledge that any company who comes up with a package similar to that currently offered by Condor will be given equal treatment by the department?

**Senator A.J.H. Maclean:**

Yes, I hope I made that clear in my opening remarks. It is about a level playing field. If there were an operator to come forward that could offer the same level of service, rotations and such like that is required and specified in the agreement, then of course that will be treated in a similar way and assessed on its own individual merits. I would point out to the Deputy as well, I know he made a comment about the work that has been done with sports groups. I can say that although it sits outside the agreement, a range of measures dealing with not just the economy but also the community, including sports groups, is under consideration by Condor and is an important part of their commitment to the community.

**3.19.2 Senator L.J. Farnham:**

Given the fact that Condor do not have exclusive rights to sea transport to and from the Island, does the Minister acknowledge that the proposed large investment by the company in shipping represents some really good opportunities for tourism?

**Senator A.J.H. Maclean:**

The vessel itself potentially is one element of a commercial negotiation for a network of routes, which is what we are dealing with from the U.K. to the Channel Islands and onwards to France. Clearly having the vessels with the right capacity and capability is going to add significantly to what tourism can benefit from. The new vessel, for example, we are told is far more reliable, has far greater capacity and comfort. I understand that 90 per cent of the weather cancellations in the last year would have been avoided had the 102 been on the route. Indeed it would have been a much more convenient ride as well, something like 70 per cent less sick bags have been estimated

due to the comfort on the new vessel. These are all considerations but clearly it is about the commercial detail that matters as far as the Islands are concerned. But I am sure tourism will be a beneficiary and are an important consideration in discussions.

### **3.19.3 Deputy S. Power:**

I thank the Minister for the information so far and the useful information that Condor has provided with regard to the comfort that this proposed vessel will provide. Can he confirm to me that our neighbours in Guernsey are happy that this will be a non-exclusive agreement and that both Ministers agree on this? Would he also confirm that the Port of Jersey - and I suppose the Port of St. Peter Port - are open ports for freight for all types of other shipping activities in the future, including possibly new R.O. pack services (RoPax services).

### **Senator A.J.H. Maclean:**

Yes, to the open port and yes, to co-operation with Guernsey, and yes, it is a happy Guernsey Minister or Ministers with regard to the negotiations and discussions that have been undertaken to date. They are completely and utterly at one with us with regard to the negotiations. If anything the Jersey element of the negotiating team has been driving a much harder bargain with regard to Condor than perhaps our colleagues in Condor would have required. Nevertheless, I think it is important that we get the right deal for the Island and that is why these negotiations have taken as long as they have, to ensure that the very best deal possible is delivered not just for the Island economy but also for the community.

### **3.20 Deputy G.P. Southern of the Minister for Social Security regarding the provision of sufficient financial support for carers:**

In the light of moves to encourage those in need of care to remain in their own homes for as long as possible does the Minister consider that the changes to Invalid Care Allowance (now Home Care Allowance) as agreed in P.101/2012 (Social Security (Amendment of Law No. 4) (Jersey) Regulations 2012) provide sufficient financial support for carers?

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

Members will recall my response to an almost identical written question from Deputy Southern answered on 3rd June. I am happy to repeat that I considered the replacement of Invalid Care Allowance by Home Carers Allowance to be a positive step. The value of the benefit available to carers did not change. In addition, as explained in the written answer, additional support is available through the income support system for low income families. Again, as noted in my previous response, the new long-term care scheme will improve the financial support available to people being cared for in their own homes. The Long-Term Care scheme will be operational from 1st July of this year. This scheme provides support to the person receiving care rather than the carer. However, where care is being provided by a family member the cost of respite services can be included in the calculation of the amounts of Long-Term Care benefit available.

### **3.20.1 Deputy G.P. Southern:**

Is it not the case that for those in work they can claim Home Care Allowance, which amounts to around £190 a week, whereas if people are not in work - if they are unemployed - that would negate their income support payment and they can only claim an additional £40-something through the Invalid Care component in income support?

### **Senator F. du H. Le Gresley:**

If a working age person is not in work and they are receiving income support they should be a jobseeker and the view of the department is that anybody who is a carer for somebody who has care needs, which we assess at level 3, would no longer need to be a job seeker and that person, if they are living in an income support household, would receive the carer's component. What perhaps Deputy Southern is overlooking is that in Home Carers Allowance there is no disregard so if that person was to be awarded Home Carers Allowance their income support claim would reduce accordingly.

**3.20.2 Deputy G.P. Southern:**

Precisely, and that causes a difference in the financial reward for one set of carers to another set of carers. In addition ... the Minister is shaking his head but I think that is the case. In addition, it is very difficult to claim Invalid Carers Allowance because now there is a contributory condition placed on it. You have got to have paid contributions six months before you want to look after your elderly relative, in this particular case. If you are unemployed that will not have happened so therefore you cannot claim it. It is a result of changes that this Minister made in order to bring that into the contributory scheme. Is that the case?

**Senator F. du H. Le Gresley:**

An unemployed person who is made redundant would receive Social Security contribution credits. An unemployed person who wishes to continue to protect their entitlement to benefits can pay class 2 contributions, if they wish. The simple position is that this benefit is for working age people. The average age of current claimants is 51, it is a working age benefit, and there is no need to, as far as I am concerned, change the rules.

**Deputy G.P. Southern:**

I return to the question not answered. Does this create a 2-tier scheme whereby some people can only apply for the component at £47, I think it is, and some can claim the £145 and still earn. So there is 2-tier and a lack of encouragement for one set of people to become carers for their elderly relatives?

**Senator F. du H. Le Gresley:**

Everybody of working age has to pay social security contributions. It is a fact of life unfortunately. Some people receive credits. For example, a woman or a man looking after a child under the age of 10 can receive home responsibility protection. People going to university can receive credits. There are a number of situations where people are exempt from paying contributions. But the fact is, that this is a benefit that requires contributions. There is a period of 6 months before you can claim a benefit if you have not paid in the relevant quarter. So the situation could be that if somebody expects to be a carer for a long length of time they can pay one month's contribution in the relevant quarter and claim the benefit after 6 months. So it is available to people who are not in work.

**Deputy G.P. Southern:**

But if they are unemployed they can only get credits.

**The Bailiff:**

I am sorry, Deputy, I think (a) it was the last question and (b) we have run out of time. So I am sorry the Connétable's question falls away. We come then to questions to Ministers without notice and the first period is to the Minister for Health and Social Services.

**4. Questions to Ministers without notice - The Minister for Health and Social Services**

#### **4.1 Deputy M.R. Higgins:**

I shall not be addressing the urgent question I brought to you this morning, Sir. Earlier I asked the Minister for Home Affairs about an incident involving a videotape and child protection issues. I am going to ask the Minister for Health and Social Services, who had a meeting with former Deputy Pitman and the person making the complaint in, I think, January of this year. She was shown photographs of what went on and yet her department also are not correcting data that they have provided to the child protection people. Can I ask the Minister what action she has taken to make sure the correct information has been forwarded to the child protection agencies- which by the way the Head of Child Services was the person who felt there was no child protection issue, which I find amazing in the circumstances – and what she has done to make sure the correct information is provided to the child protection agencies and therefore to the court?

#### **The Deputy of Trinity (The Minister for Health and Social Services):**

I would like to think that all the information that we give is correct and it would be totally inappropriate for me to go down any particular incident. Obviously the Deputy has concerns about it and if he would like to contact me, and tell me exactly what the concerns are, and what he feels that the correct information has not gone across then I am happy to meet with him and look at the issues.

#### **4.1.1 Deputy M.R. Higgins:**

This is unbelievable. The Minister sat in a 4-hour meeting and was given full details of the incident, including some still photographs taken from the video. She expressed at that meeting concern about the incident and concern for the child. Her department, her officers, are not providing corrected information to agencies down the line. She has been aware of this. She knows the full facts. Is it acceptable for her to sit back and do nothing?

[11:45]

#### **The Deputy of Trinity:**

I have not sat back and done nothing. But the Deputy has made an allegation that not the correct information has gone across. Until I know what he feels the correct information has not gone across is, it is very difficult for me to comment on it. As I said, I am happy to meet with him and look at what he feels is not the correct information and take it from there. If he feels it is not and it is proved then we will take it from there.

#### **4.2 Deputy M. Tadier:**

Does the Minister believe that the charges for primary healthcare - that is to say to visit a G.P. - are prohibitive for many and act as a disincentive for people to go and see the doctor and therefore risking their health at the same time?

#### **The Deputy of Trinity:**

I am aware that some families and especially with young children are finding the cost of going to a G.P. very expensive. That is why the primary care review is taking place. It stalled a bit last year, because the procurement group could not agree a way forward. But we have taken a step back, reformed and everyone is now on board to looking at setting up a primary care review, which includes the general practitioners, dentists, opticians and pharmacists. It is now led by one of my officers from within Health and Social Services liaising very well with the G.P.s and the other groups that I mentioned, and there will be a need for off-Island specialists. That will be done in that time, such as health economics.

#### **Deputy M. Tadier;**

As a follow up, does the Minister accept that the only way to get rid of the disincentive which many, if not the majority, of Islanders feel about going to the doctor and therefore taking care of their health is to introduce universal free access to G.P.s for all Islanders who would currently quality for the subsidies?

**The Deputy of Trinity:**

That can be one way; the review body will look at very many different ways. But the fact of co-payments is one at this moment I would support. Not at the figure mentioned but it is one that you value the service that you have and obviously there needs to be safeguards for people who cannot afford it. But that is something that will be looked at by the review board and again it will go forward to the Ministers' Oversight Group.

**4.3 Deputy S. Pinel of St. Clement:**

I, along with other Members, have very serious concerns about the future of some of our young people in this Island. These issues have been highlighted by the very comprehensive and factually based Child and Adolescent Mental Health Services Scrutiny Report released yesterday. While I strongly believe that children are ultimately the responsibility of their parents, education has a huge influence on young people's lives. Can the Minister advise the Assembly as to the extent of collaboration with the Education Department that has taken place to identify potential problems with young people on the basis that early intervention is deemed the best policy for all concerned?

**The Deputy of Trinity:**

I would just like to recognise the report that Scrutiny did come out with yesterday and fully acknowledge that there are some challenges within it. But also very importantly, and it falls on what the Deputy has said, very much highlighted that mental health, whether a child or an adult, is everybody's business. That is important and that is where we work very closely with Education and with the voluntary sector as well. A lot of work has been put into M.A.S.T. (Multi-Agency Support Team), which are social workers within secondary schools and counsellors and education psychologists in secondary schools. What I would like to see - and it is going to be probably the next stage - is having a similar type of M.A.S.T. within primary schools. But to stress, it is everybody's business, and the more we can get that early intervention the better. That goes along with Jersey Talking Therapies too. It is all these initiatives but also it is right from pre-birth we have put also some extra funding into the N.S.P.C.C. (National Society for the Prevention of Cruelty to Children) with extra support for parenting groups and also health visitors in a community and also a lot of ...

**The Bailiff:**

I think Minister that is long enough.

**4.4 Deputy J.A. Hilton:**

Has the Minister and/or the Assistant Minister, who has specific responsibility for children, apprised themselves of the preliminary findings of a Serious Case Review which has recently been completed and if not, why not?

**The Deputy of Trinity:**

Yes, I have, as the Deputy would expect when it was sent to me just before States Members had it on Friday. I did take time to read that through and will continue to read that through. I was very impressed with the adviser's comments and the adviser's action plan.

**The Bailiff:**

I am sorry, Minister. I think the question was about a Serious Case Review.

**The Deputy of Trinity:**

Sorry, could she repeat the question again? Sorry, I have gone off tangent.

**Deputy J.A. Hilton:**

Has the Minister and/or the Assistant Minister, who has specific responsibility for children, appraised themselves of the preliminary findings of a Serious Case Review which has recently been completed and if not, why not?

**The Deputy of Trinity:**

Sorry. Yes, the very preliminary findings came to the Insurance Policy Group about 3 or 4 weeks ago but also I and the Ministerial team had always had findings too from our internal management records, which obviously is part of the Serious Case Review and the findings and the recommendations within Health and Social Services. Some of those recommendations, as you would expect, will continue to be looked at.

**4.4.1 Deputy J.A. Hilton:**

Just as a supplementary, I was very concerned this morning when the Assistant Minister with political responsibility for the Safeguarding Board told Members this morning that sometimes Serious Case Reviews can take between 2 and 4 years. My concern is that serious matters arise out of Serious Case Reviews and the fact that these mistakes might be repeated time and time again if we are talking about that type of timescale. I want to be absolutely assured that those people who have responsibility for children, political responsibility for children, keep themselves fully up to date as these recommendations are coming to the fore.

**The Deputy of Trinity:**

I could not agree with the Deputy more. In Serious Case Reviews each department - and it is all the departments including the Honorary Police, if appropriate, Family Nursing Services - has to do an internal management review and Health and Social Services usually do that with an independent reviewer, look at all the single notes that are available to them and they can access whatever they need to. It is a very thorough and very complicated piece of work. When that is completed within the department then I get a copy of it, and the department is high on their priority list. If the reviewer - the internal reviewer - feels that something should be put in place we will address it and we will do it. We will not wait for the full publication of the Serious Case Review.

**Deputy M. Tadier:**

Point of order. I know the football is on at the moment. Are you going to be allowing extra time for stoppage from those very long answers and repeated ...

**The Bailiff:**

I am going to allow extra time for the time that the Minister inadvertently answered a question that had not been asked.

**4.5 Deputy R.G. Le Hérisier:**

I wondered if the Minister could tell us from whom she took advice to apparently not produce documents for the Committee of Inquiry.

**The Bailiff:**

No, I am sorry, Deputy, that is out of order because it relates to a Committee of Inquiry and Standing Order 10(9) prohibits that.

**Deputy R.G. Le Hérisier:**

Can I rephrase the question? I wonder if the Minister could outline the policy she adopts when she gets requests for documents from various bodies?

**The Bailiff:**

No. Deputy, good try but we must stick by the spirit as well as the wording of the Standing Order.

**4.6 Senator S.C. Ferguson:**

From time to time the Minister complains about the shortage of professional staff such as nurses. Has she considered instituting a crèche at a suitable property?

**The Deputy of Trinity:**

Indeed I have and it is something I looked at with the Chief Nurse perhaps 3 or 4 years ago. But we came to a bit of a non-starter because we did not have the room. As you know the hospital is quite tight and up at Overdale, the buildings up there are very well past their sell buy date. It is a very important issue and I think perhaps, as you have raised it, I might give it some thought. I will send it to the new Future Hospital Project Board to see what their thoughts about it are.

**4.7 The Connétable of St. Lawrence:**

I asked the Minister a question earlier about people with medical conditions which prevent them from driving and whether any assistance is given from the Health Department for them to lead normal lives, which we take for granted with our mobility around the Island. The Minister said that nothing is provided for on-Island transport. I would like to ask her how her response equates to statements from the Chief Minister in the current Strategic Plan which say: "We will care for the sick and vulnerable in our society." His second comment is: "People tend to flourish when opportunities and incentives empower them to manage their own lives." What opportunities and incentives are we giving to those with the medical conditions I have mentioned?

**The Deputy of Trinity:**

I would just like to correct the Constable first. There is support for people who, for one reason or another, cannot drive; strokes, dementia, epilepsy, *et cetera*, if they wish to come into hospital for various appointments, treatments, X-rays or whatever, and there is financial support if they need treatment outside the Island. As regarding needing support to get around the Island, not necessarily into hospital, I think that quite rightly sits with the Social Security Department not within Health and Social Services. Our budget is stretched quite tightly and anything extra like that where they can go to Social Security can be addressed that way.

**4.8 Deputy J.H. Young:**

Would the Minister outline for the Assembly the improvements or reductions she has been able to achieve in hospital consultant waiting lists since she last dealt with questions on the subject and when will she start to publish those and can she mention any particular specialities which are exceeding the 16-week target that she told us about?

**The Deputy of Trinity:**

I do not think I set a 16-week target but there is some good news. Just to outline the figures, I will not go into too much detail, we have over 5,000 patients waiting for an outpatient appointment and just over 36 per cent have been waiting for 3 months. But just to quote one particular waiting list time, which is the orthopaedic one, on 1st January this year over 1,200 patients were waiting to be seen and 234 were waiting for over 3 months, but by the work of the orthopaedic team that figure has reduced to 776 patients waiting to be seen and 132 of them waiting over 3 months. So we have had well over a 40 per cent reduction in 'waiting to be seen' and 'waiting over 3 months.' There is still continued work to be done and it will continue over this year to have significant investment in

waiting times but also organising our clinics and getting local staff as appropriate because they do still need to come down. I also stress that some waiting lists, some specialities, have only got a 2-week waiting list.

**Deputy J.H. Young:**

Will she publish the list as I asked?

**The Deputy of Trinity:**

Yes, quite happy to.

#### **4.9 The Deputy of St. Ouen:**

Following what many would regard as the extremely large number of sexual, physical and emotional child abuse allegations made to the Multi-Agency Safeguarding Hub over the last 8 months, as reported in the answer to written question 14 presented to the States today, including 107 cases of self-harm, what actions are the Minister and her department taking to reduce the incidence of such abuse?

[12:00]

**The Deputy of Trinity:**

As we know, we are waiting for papers about the effects that self-harm can have with these young people. One of the amazing effects of the M.A.S.H. Group is that all information goes straight ... and it is real-time information. As regarding what we have doing, we have been ... it is not only Health and Social Services, Education have a big part to play within it too. Some of it is illegal drugs, bullying, cyber bullying, and we need to make sure that things are in place. We have updated the Parents' Guide to Drugs and every family should have one; that was done through schools. It is a lot down to education, education of the importance of illegal drugs and alcohol and the mixture together is very, very risky.

#### **4.9.1 The Deputy of St. Ouen:**

Supplementary. I fully acknowledge the need for education but for the child that is self-harming I am not certain that education is the best form of action and I ask the Minister again, can she please confirm what support she is providing to those individuals who are self-harming now?

**The Deputy of Trinity:**

If they are self-harming now they are referred immediately to ... if they have not been part of the C.A.M.H.S. support now they are referred immediately to that and if they are classed as urgent they are seen within 24 hours, and that support in there is for them and for the family and it will be ongoing support. There is not one easy fix to this and it will take a long time but that support is there, if necessary on a one-to-one support and sometimes on a one-to-2 or one-to-3 support.

**The Bailiff:**

I think normal time is now up. We now go into extra time.

#### **4.10 The Deputy of Grouville:**

With the imminent change of oncology consultants for the Island, could the Minister confirm that the facility to receive chemotherapy on Island to enable patients to lead as normal a life as possible while undergoing treatment is important and she will ensure that it remains?

**The Deputy of Trinity:**

Yes, with my background with hospice, oncology is very close to my heart and it is very important, and very important that we continue to provide services here on the Island and that they do not have



to go to the U.K. for treatment. Chemotherapy will continue to be provided and the new refurbished Chemotherapy Unit, I think, is due to open in the next couple of months. That will make a significant improvement into the care and treatment that patients receive.

**The Bailiff:**

Very well, I think that is extra time. So we come next to questions which the Minister for Economic Development will answer.

**5. Questions to Ministers without notice - The Minister for Economic Development**

**5.1 Senator L.J. Farnham:**

In light of the recent report of the Tourism Shadow Board, could the Minister update the Assembly as to the progress being made towards the formation of an independent body to market Jersey as a tourism destination and when we can expect that new body to be in place given in mind time is pushing on if we are going to make a significant impact on 2015 onwards?

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

As at the time when the report was delivered by the Shadow Tourism Board we made it clear that they would then be moving together with the department to put together the business case which is necessary to support the outline detail contained within the report to a new structure. That work is underway and I expect to have the report by July. That is the report on the business case which will allow then, hopefully, the development of the new structure. The Senator also asked about influence on the 2015 tourism season, clearly that is going to be difficult with the timescale involved but hopefully shortly after July the process can start if it is indeed supported by the business case.

**5.2 Deputy G.C.L. Baudains:**

As the Minister will know, I have spoken to him several times about the possibility of not having fast ferries and perhaps speeding-up the conventional ferries. Elsewhere they would be doing 26 to 28 knots and the fast ferries are uneconomic. They burn 1,000 gallons of diesel an hour at least. Can the Minister advise whether such an option has been discussed with Condor and would he confirm or deny that having fast ferries is a requirement we impose on the company? I am not sure.

**Senator A.J.H. Maclean:**

First of all with regard to economies, the Deputy is absolutely right and particularly the 2 86s that operate on the northern route are not particularly economical and they are ageing. In fact Condor have spent something like £10 million in the past 2 years on maintenance alone. So the new vessel - if indeed that is obtained - is going to be much more economic for them to operate. He is also right insofar as slower vessels and modern technology coming in will improve yet further that position but it is some years away and in the future I can see a solution where a faster traditional vessel could well serve the islands instead of fast ferries, but the technology has yet to move on to get to that particular point.

**5.3 Deputy T.A. Vallois of St. Saviour:**

Does the Minister agree that the Tourism Development Fund would be a good opportunity for an eGovernment project which would allow a step forward for openness and transparency in grant funding and provide better clarity and applications and absolute timelines for requiring the information?

**Senator A.J.H. Maclean:**

I am all in favour of eGovernment. I have recently returned from Estonia where we saw some staggering progress with 34 per cent of votes online, 98 per cent of banking done online, 95 per cent of tax returns online; it is quite incredible. eGovernment is central to our Public Sector Reform Programme and I believe that applications, such as the one that the Deputy is referring to with the T.D.F. and other services provided by the State, can, to a greater extent, go online and provide a more efficient and cost-effective service for the benefit of Islanders, and I think that is a good thing.

#### **5.4 Deputy R.G. Le Hérissier:**

Is the Minister convinced that the Competition Regulatory Authority has sufficient powers to deal with the ongoing issues to deal with the oversight of Telecoms and the inability to separate the wholesale from the retail side, it appears, of Jersey Telecom?

#### **Senator A.J.H. Maclean:**

This is an area which is somewhat complex. I agree with the Deputy that the move to wholesale line rentals has been, to put it mildly, frustrated. That is a significant regret both for Islanders, for consumers and for the local economy. We need to see the market opening-up. In the U.K. wholesale line rental was opened 10 years ago. We are 10 years behind the U.K. and frankly it is not good enough. Does the Competition Authority have the necessary powers? Yes, they do. I think where there are some concerns, and where I have had some discussions with the regulator, is around improving the balance that exists between its ability to act in a timely fashion, which I think is what the Deputy is alluding to, and indeed the rights of the operator. Largely that is around, if I remember correctly, Articles 11 and 19 of the Telecommunications (Jersey) Law which means that the process allows the operator too many safeguards and can slow down and frustrate the process, which is what we have recently seen where the Competition Authority lost a court case on a matter of process. A point that I have made before. So those are areas that we are looking at, seeing if we can reach an agreement to streamline those processes to improve ...

#### **5.4.1 Deputy R.G. Le Hérissier:**

Just a point of clarification. Can the Minister announce when he will be bringing amendments forward to streamline the process?

#### **Senator A.J.H. Maclean:**

I cannot give a date to the Deputy but it is a matter of some urgency that that is done. I would say though that I understand that the C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities) Board have made an agreement, among themselves, to issue an initial notice with regard to wholesale line rental. I believe that has been published on the website this very morning so Members may not be aware of that. That, again, is starting the process over again to open-up the market. It is the view of C.I.C.R.A. that wholesale line rentals should be introduced no later than 1st June 2015. That, in my mind - and I have told them this - is a very long period of time. In reality there is no reason why J.T. (Jersey Telecom), for example, could not decide to open the market considerably faster than that and I think that is a position that both Government, regulator and the operators need to have to get some common sense into the discussion.

#### **5.5 Deputy S. Power:**

Is the Minister in a position to give the Assembly a very brief update on the status of the *Crystal Island* production?

#### **Senator A.J.H. Maclean:**

I can give a very brief overview. I will be intending to give a more detailed one in fairly short order. The reason I say that is that we have reached the position where the pre-production work is

clearly now complete. We are satisfied with that, which I have stated previously. That means that we have a script, I say “we”, the company itself has produced a script as a result of that funding. It is in a position to proceed but it is not able to do so as I understand it, as we are advised, with a lack, at this stage, of financing. Some of the financing, we are told, has now been lost and they are working hard to try and put that back in place to be able to progress it. What we have done, as a department, as part of the agreement, we have requested from them the final report on the work that they have undertaken and once I have had that to hand, which will be very shortly, I will be making a statement to Members about the exact position that we are in with regard to this particular film and investment funding.

#### **5.6 Deputy S.G. Luce of St. Martin:**

It is a number of months now since the board and the funding were made available for the Innovation Fund. This Assembly made £5 million available and the Minister has at his disposal a top quality board. Is he satisfied with the number and the size of the awards that he has managed to sign-off so far?

#### **Senator A.J.H. Maclean:**

I agree with the Deputy that the period of time has been longer than perhaps I would have liked to have seen. I have spoken to the chairman and he agrees with me that it has taken longer than he and his board would have liked to have seen. Having said that, there have been something like 16 applications through the process. I have just recently signed-off the first grant recommendation that has come from the J.I.F. (Jersey Innovation Fund) Board, which I am delighted with. I hope that is now going to put us in a position where we can move a lot faster in getting to deploy some of the funds, the £5 million; that has been put into the Jersey Innovation Fund which is there to foster innovation and stimulate the economy. There are 2 more, I believe, very close to recommendation, that is encouraging, and I want to see some momentum building up. I think I would just add that the previous question around the film that was mentioned has, without doubt, in some areas, regrettably, made matters slower than I would have liked to have seen with regard to officers, and such like, going through particular degrees of due diligence, and such like, and that clearly is regrettable but understandable.

#### **5.6.1 The Deputy of St. Martin:**

Given that the Minister and the chairman of the board both agree that we are not moving fast enough, what has the Minister put in place to speed things up?

#### **Senator A.J.H. Maclean:**

I perhaps should put some context around the fact that when the board was set up there was clearly a lot of work to be undertaken for those board members themselves to get in a position where they could properly carry out their duties. So from a standing start it was never going to be a position that recommendations would come forward; there would always be a delay, a lapse. I think it is the period of time that is the issue. We have spoken. We believe that the interaction between the board and the department can be improved and I think that moving forward there is a general agreement from both the board and the department that we will get recommendations, assuming they are good quality. Clearly, one does not want to be awarding funds to inappropriate bodies so it still has to be the quality but we believe that the process will streamline looking forward and I hope that is the case.

#### **5.7 The Connétable of St. Brelade:**

I believe the Deputy of St. Martin and myself are psychic because he pinched my question, but could I just ask the Minister how progress is being made or what progress is being made in regards to the Financial Ombudsman?

**Senator A.J.H. Maclean:**

Yes, the ombudsman obviously came to this Assembly in April of this year - the law - and indeed that is now going through the Privy Council process. We are still on target for 2015. The same process; all requirements are in place with regard with retrospection and I recently had the pleasure of speaking to the Citizens Advice Bureau, a number of Members attended that evening, to give them that update and detail of the Financial Services Ombudsman which will be introduced to the Island.

[12:15]

**5.8 Connétable M.J. Paddock of St. Ouen:**

Could the Minister give the Assembly a brief update on the progress with harbours and airport? Are we still on course time-wise and will everything be in place before this comes to the Assembly?

**Senator A.J.H. Maclean:**

I am not entirely sure of the last part of the question, will anything be in place before it comes to this Assembly. With regard to a general update, the matter of ports incorporation is progressing. A consultation process has now commenced which will run from now until the middle of the summer after which we hope to be in a position to pool together the full bundles, and unfortunately this particular session will be out of time for debating but I would suspect that the next Minister for Economic Development will be in a position to progress the matter of ports incorporation as an early item on the agenda. Momentum is continuing to move and a good deal of progress has therefore been made.

**5.9 Deputy J.H. Young:**

Can the Minister give us an update on the feedback he is getting from the various sectors of our economy on the current health of our economy and the future particularly, perhaps, of the construction industry?

**Senator A.J.H. Maclean:**

Yes, in fact the Business Tendency Survey is a good indicator of the state of the economy and I have to say that the latest statistics, both from that particular report and also meetings that I have held with industry representative groups, are that since the latter part of last year confidence has begun to slowly return to the local economy in a number of areas: future employment, future business flows and such like. I think that the momentum is growing and it seems to cross most sectors, starting with financial services. Clearly as the largest element of the Jersey economy it is absolutely essential that financial services is strong and that seems to be seeing new flows of business, which is feeding out into the other sectors although there are still challenges, in particular, around the retail sector. I think I made the comment a few weeks ago that we have seen job losses in the last 4 years of about 800 in that sector and we continue to work hard with a Retail Development Plan to support retail.

**5.10 Senator L.J. Farnham:**

Could the Minister confirm that the very popular and vitally important web domain address, jersey.com, which is synonymous with tourism, will remain the domain address of Jersey tourism and that there are no plans to utilise it for other departments?

**Senator A.J.H. Maclean:**

I think there are plans afoot by other departments to utilise the jersey.com brand. I think that is part of an ongoing discussion between a number of parties. We recognise the value to jersey.com from

a tourism perspective but equally the deployment and development of the States websites are critically important and we will need to ensure that we bring all parties together to a solution that is going to work most effectively and constructively for the economy and community as a whole.

**5.11 The Connétable of St. John:**

Given the new Condor lease is under negotiation at the moment, will the Minister, in any negotiations, try and put in additional direct routes from here to the U.K. because each time they stop in Guernsey it adds another 45 minutes to an hour on the route of our travelling public? Given 75 per cent, or thereabouts, of the public travelling north will have come from Jersey can he see if we can get additional rotations direct without stopping in Guernsey?

**Senator A.J.H. Maclean:**

I am sure I can bring a smile to the Connétable's face because in fact that is a point that has been raised. Rotations are going to be critically important for the Islands, but clearly from a Jersey perspective we would like to see direct routes if that is at all possible and that is being looked at as a possibility. Direct routing, not all of them, but some direct routings from the U.K. to Jersey are an option that is under active discussions as part of the negotiations and I think that is quite positive.

**The Bailiff:**

Very well, that concludes questions without notice to the Minister. There are no matters under J or K so we now come to public business.

**PUBLIC BUSINESS**

**The Bailiff:**

Now the first matter, Minister, I think you have already notified Members you wish to defer, is that right, Projet 62?

**Senator A.J.H. Maclean:**

Yes, if I may. Thank you.

**The Bailiff:**

Now, I have received a note from the Greffier that there are other linked matters. Is that right, Minister for External Affairs, Projet 63, are you deferring that as well?

**Senator P.M. Bailhache:**

Yes. I think it probably would be desirable for the Air Navigation Law and amendment and the Regulations to be dealt with at the same time as the Aircraft Registration Law and so in the light of the Minister for Economic Development's postponement of his projet perhaps I could seek to do the same thing.

**The Bailiff:**

Very well, and what about Projet 50 and 54 which I was informed ...

**Senator I.J. Gorst:**

Yes, indeed, if I can help there. The same applies to those. They are all connected with the Aircraft Registry and I take the view it is better if Members deal with them as a bundle rather than separately, thank you.

**The Bailiff:**

So the first 5 items on the Order Paper are deferred so then we come to Projet 64 ...

**The Connétable of St. John:**

They will be deferred for how long because we have got a ...

**The Bailiff:**

Deferred until 30th June, is that right, Minister?

**Senator I.J. Gorst:**

Yes, that is the intention.

**The Connétable of St. John:**

Thank you.

**The Bailiff:**

Clearly Members will, at the end of this meeting, have to look at the agenda for 30th June.

## **6. Draft Community Provisions (Goods Suspected of Infringing Intellectual Property Rights) (Jersey) Regulations 201- (P.64/2014)**

**The Bailiff:**

Yes, so then we come to Projet 64, Draft Community Provisions (Goods Suspected of Infringing Intellectual Property Rights) (Jersey) Regulations lodged by the Minister for Home Affairs. I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Community Provisions (Goods Suspected of Infringing Intellectual Property Rights) (Jersey) Regulations. The States, in pursuance of Article 2 of the European Communities Legislation Implementation Law 1996, have made the following Regulations.

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

I will not hide from Members the fact that this is not the most interesting piece of legislation that I have presented to the States but nevertheless it is not unimportant. It relates only to commercial trading goods and not to personal goods owned by individuals for their own use. In fact it relates to goods being imported from outside the E.U. (European Union) and being put into free circulation in the Islands or into a duty suspense procedure subject to exportation. It provides a procedure under which the holder of intellectual property rights can challenge bogus goods or pirated goods at the point of entry into the Island; that is through the Customs and Immigration Department. It is necessary to proceed with this for 2 reasons. Firstly, because we need to have a complete system to deal with pirated or bogus goods, partly to protect Islanders and partly to protect the Island's reputation. If pirated or bogus goods were to be brought into Jersey and then distributed elsewhere in the E.U. then this would be very damaging to our reputation and frankly we would not want to have this. We need to have protection against it. Secondly, we have to do this because we have obligations under Protocol 3 in relation to goods. This is an E.U. piece of legislation which we are seeking to apply to Jersey. I thought that in early 2013 that I had fulfilled my obligations in this area when I brought before the States the previous piece of legislation which dated back to 2003 but unfortunately the E.U. then decided to have a tidy-up of that and to change it, hence why I have to come back again a second time with another piece of E.U. legislation in order to seek to apply it here. This widens the types of intellectual property covered by introducing 6 additional categories. I will not go into the details of those categories unless Members want me to. Turning now to the outline of the Regulations. The effect of them is to bring 608/2013 into force. The Agent of the Impôts - that is effectively the Chief Customs and Immigration Officer - is the competent Customs

Department and therefore has authority to deal with it. The E.U. Regulations become what is called technically an “assigned matter”. That means that it gives the Customs and Immigration Department all the necessary powers that they need to have in order to be able to deal with this matter in addition to anything which is contained in the Regulation. Regulation 5 amends legislation where there are parallel powers in other legislation so that those powers would not apply where these apply and Regulation 6 repeals the previous provisions. The Regulations in fact will come in to effect immediately and I move the principle.

**The Bailiff:**

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

**6.1.1 Deputy J.H. Young:**

I think I am going to have to challenge this. It has always troubled me about where it is that States have to become involved in enforcing what are essentially commercial and trade legal rights. Here we have got - I think the Minister did this in his introduction there - give us a wholesale case for, again, a further strengthening of powers and putting on our statute book a set of rules basically to enforce what the E.U. says that we should say by international agreement that when people bring things like handbags and so on that they have bought on their holidays into the Island and so on, that all these sort of things that we, the taxpayer, should act as an enforcer ...

**Senator B.I. Le Marquand:**

Can I immediately correct the Member? He clearly was not listening to what I was saying initially. This has got nothing to do with individual goods. This has got to do with the importation of large scale goods into the Island, not to individuals bringing their handbags or things of that nature. It is completely misleading.

**Deputy J.H. Young:**

I thank the Minister for his intervention. I think I was being guilty of a bit of a slight misrepresentation there. I apologise and I withdraw that but I was using it as a point of illustration that here we have got a law that makes a moral distinction between somebody who goes on holiday and buys a handbag off a street seller and brings it back to Jersey, that is all right then but we have to have the mechanism of the State to enforce laws. Now, what I worry about is right at the end there it says “manpower”. At the end of all these legal duties that we are taking on it has got manpower and financial implications, there are not any. I struggle with that. I really do. You know who is going to do this? Are they going to do it for free? Now, I would like to think that if States or Governments are going to be asked to pass such legislation that at least there is some money there. Here we are having to make decisions on Government cutbacks and here we have got Regulation, nothing to do with protection of the Islanders because as the Minister has just told us they are all right. This is about absolutely commercial agreement, and if there are to be such proceedings, to me, those costs and all that I expect to be dealt with through proper litigation through our courts. I think, again - the Minister will interrupt me if I have got it wrong - I see there where you have got distinctions where manufacturers are overrunning their supply chains, and for good reasons in some cases. Health: drugs, for example, the big issue of drugs and the fact that the third world cannot afford to pay the enhanced drug costs throughout large areas of the planet. There are arrangements for those countries to be able to receive such goods but if those goods in this new world of internet supply suddenly stray into a developed country then: “Oh, no, that is it.” This gets caught as well. So, I think, I could live with this if we had some arrangement whereby the increased costs of all this legislation and enforcing it, and I see on there there are the duties of the Customs Department and all this type of thing, all of those are required to do things. Who is going to pick up all these costs? I have always had a ... maybe I am very unusual in this but I always wonder who loses. To me it is a commercial issue and increasingly this is part and parcel of

a situation where we are required, as a state, to effectively become enforcers of the commercial world. If you contrast it, for example, in an earlier ... I asked the question of the Attorney General: can we help people who have suffered losses in our Island, our citizens, by helping them in group actions? No, we cannot. But, no, we can do it for commercial companies. So to me I am really troubled by this.

**6.1.2 Deputy M.R. Higgins:**

Just very briefly. I would like to echo the previous speaker's comments about some of these laws. I recently have been importing goods into the Island and Customs are applying, erroneously, U.K. legislation.

[12:30]

In other words people are being charged duty in this Island for things that they should not be paying duty for. They would not certainly be charged in the U.K. and yet there appears to be no redress, short of having to complain, but they are being told: "That is what it is. You either pay it or whatever." There are problems. They are applying other peoples' laws in the Island without knowing what they really are.

**The Bailiff:**

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

**6.1.3 Senator B.I. Le Marquand:**

This piece of legislation exists in parallel with other pieces of legislation, in particular the Intellectual Property (Unregistered Rights) (Jersey) Law 2011, which was passed by the States in December 2012 and came into effect, and that is what deals with the sort of parallel cases Deputy Young was talking about. The reason why this says there are no financial implications is because we are already doing it but we are doing it under the 2003 E.U. Regulation which we agreed and applied by virtue of a decision in January 2013. So it is not that doing things does not cost money; it is does not change how much it costs whether we are doing it under the previous system, the 2003 system, or the 2013 system which this is bringing in. In relation to Deputy Higgins, I think this is a completely different issue to do with whether or not duties are being appropriately charged and if he has particular issues on that I invite him to take that up either with the Customs and Immigration Department or with myself or with the Treasury because one of the peculiarities of Customs and Immigration is that although they are a Home Affairs Department and I have oversight of them, when they are collecting revenue like that they are doing a job on behalf of the Treasury. So I hope I have answered the questions. I maintain the principles.

**Deputy J.H. Young:**

Could I seek clarification? The Minister said that I was wrong. He has not dealt with the issue of costs as I raised and I just wonder if he might comment on Article 8 in this law that says that no fees should be charged.

**The Bailiff:**

Well, I thought he did deal with costs. He said that there was no change because we were already doing it under the previous legislation. That is what he said.

**Senator B.I. Le Marquand:**

Yes, that is what I said. That particular section 8 is saying that we cannot charge for matters but that is part of the system.

**The Bailiff:**



Very well, all those in favour of adopting the principles kindly show? Those against. The principles are adopted. Connétable of St. Brelade, do you wish this matter to be referred to your Scrutiny Panel. Then do you wish to propose the Regulations all together, Minister?

**Senator B.I. Le Marquand:**

I do and I did already give a brief outline of them at the start of my speech. I do not think I need to repeat that.

**The Bailiff:**

Very well, are the Regulations 1 to 7 seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? All those in favour of adopting ... the appel is called for then in relation to the adoption of Regulations 1 to 7. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 37</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy of Trinity		
Senator A. Breckon		Deputy G.C.L. Baudains (C)		
Senator S.C. Ferguson		Deputy J.H. Young (B)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

**The Bailiff:**

Do you propose the Regulation to Third Reading, Minister?

**Senator B.I. Le Marquand:**

I do. I forgive the Deputy of Trinity. **[Laughter]**

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading please show? Those against. The Regulations are adopted in Third Reading.

**7. Draft Rehabilitation of Offenders (Exceptions) (Amendment) (Jersey) Regulations 201-(P.65/2014)**

**The Bailiff:**

We come next to the Draft Rehabilitation of Offenders (Exceptions) (Amendment) (Jersey) Regulations - Projet 65 - lodged by the Minister for Home Affairs. I will ask the Greffier to read the citation.

**The Greffier of the States:**

The Draft Rehabilitation of Offenders (Exceptions) (Amendment) (Jersey) Regulations. The States, in pursuance of Articles 8(5), 10(3) and 11(4) of the Rehabilitation of Offenders (Jersey) Law 2001, have made the following Regulations.

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

Under the Rehabilitation of Offenders (Jersey) Law the offences which a person should declare when asked and to which reference can properly be made are reduced unless the information is being sought in relation to categories set out in the Exceptions Regulations. That means that the general rule is that people only have to declare ... and there can only be a consideration of the reduced lists having taken into account the effect of the law unless there is an exception. If there is an exception that can either mean that a full criminal record has to be provided and can be considered or a fuller record. When we come to look in a moment in relation to the financial services type of things it is the latter category, it is not a full record but it is a fuller record than would otherwise apply. This amendment seeks to extend the exceptions in relation to 3 different areas. Firstly, to criminal records which the Royal Court can consider when deciding whether or not to swear-in Honorary Police Officers. There has been a strange lacuna there under which this was not covered by the exceptions and should be. Secondly, in relation to decisions which are made in relation to matters dealt with either by the Customs and Immigration Department or by the Minister for Home Affairs or by the Lieutenant Governor in relation to immigration type matters and again there has been a lacuna because clearly there needs to be an ability to refer to the whole record. Thirdly, to bring these provisions into line with provisions which relate to the supervision by the Financial Services Commission of different types of financial services business. There are 2 aspects of this: there is firstly inquiries made by the Financial Services Commission itself; and, secondly, there are inquiries and the right to have information and to take into account information on the part of employers. That, in outline, is what these Regulations are about. The effect of the Regulations to the amendments has been provided to Members in terms of a printout of what the Regulations would look like as amended. I apologise that those were inadvertently not included with the proposition, as was my intention, but have been provided to Members subsequently. I move the Regulations in principle.

**The Bailiff:**

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

**7.1.1 Deputy M.R. Higgins:**

Reading through the Regulations there is reference to nationality and the fact that information regarding a person's previous convictions, including spent convictions, can be taken into account. That is quite right, it should be. But what happens when the person who is coming in from a nation where they do not have those records and we do not have the access to those records? This is something that has concerned me for quite some time in relation to employment in the Island, that many people are being denied employment because they have a criminal record, which, although spent, employers are still insisting the employee goes along to the police station and gets a full record of all their spent conviction and that is used to deny them employment and yet people coming in from outside the Island are not subject to the same requirements. It is totally discriminatory. So, in other words, we have people coming from outside the Island who may have convictions, including very serious convictions, who may be granted citizenship or employment and there is no way of knowing what offences they have committed. I just feel this is totally unjust and I would like the Minister to explain what safeguards there are to make sure that no one be granted nationality unless their full record is obtained from some source or not.

**The Bailiff:**

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

**7.1.2 Senator B.I. Le Marquand:**

In relation to access to criminal records, of course, there are 2 aspects. There is firstly the aspect that of course the applicant can be asked and indeed can be required to produce the necessary information once these exemptions are in place. The practical difficulty, which the Deputy is talking about, is the difficulty of checking, on occasions, that information, the difficulty of obtaining from an outside country a criminal record. That is a practical difficulty which undoubtedly does exist in a number of areas. Nevertheless that is not something that I am seeking to solve by virtue of this piece of legislation which is simply attempting to create the right balance. It is clearly right that in relation to nationality or immigration matters that the authorities should be able to take into account all the matters which are relevant in relation to the full record and to require the person to provide the information in relation to that. I maintain the principles?

**The Bailiff:**

Very well, all those in favour of adopting the principles kindly show? Those against. The principles are adopted. The Connétable of St. Brelade is not here. Who is the Vice-Chairman of the Education and Home Affairs Scrutiny Panel? Yes, do you wish this matter referred to your Scrutiny Panel?

**Connetable M.P.S. Le Troquer of St. Martin (Vice-Chairman, Education and Home Affairs Scrutiny Panel):**

No thank you.

**The Bailiff:**

Then do you wish to propose the Regulations together, Minister?

**7.2 Senator B.I. Le Marquand:**

I will run through them fairly briefly. To understand these Regulations Members need to understand that there are various different aspects to the rehabilitation of offenders. Under Article 7, any matters referring to Article 7, relate to what part of convictions can be considered by

a court in court proceedings. Article 10(1) relates to where a person is asked about their previous criminal record other than by a court. Article 10(2)(a) relates to an obligation imposed upon a person by law or by virtue of an agreement to provide information. Article 10(2)(b) relates to the failure to disclose a spent conviction not being a ground for dismissal or exclusion from a profession. Article 11(1) forbids the unauthorised disclosure of spent convictions. I mention those because Members looking at these details will see references to these different Articles. I am going to try to take Members through these at a fairly high level and then deal with any detailed questions that may come and seek to respond to those. Article 2 changes the definition of “relevant offence”. Now, the definition of “relevant offence” is important for the purposes of Articles 20 and 21 which deal with the finance industry of related things. This is why I explained to Members before that there was a middle road here. There is a middle road test. Whereas, normally spent convictions do not count. If there is a provision which says, you must put in everything, then all the spent convictions go in but in this particular middle road, where it is relevant offences, then the effect is that spent convictions, which are for relevant offences, have to go in. So it is a middle road. That is defined in Article 2 and Members can see that it is defined both by virtue of the type of offence and by virtue of certain statutory offences as well. So that is important because when we come to Article 20 and 21 it is again and again referring to relevant offences. Article 3 is the provision which enables the Royal Court to see a full record before making a decision whether or not to swear-in an honorary police officer. Article 4 allows a full record to be looked at and an applicant to be obliged to supply details of a full record when an immigration decision or nationality decision is being made. What those mean is defined in detail within the Regulation. Article 5 is the Article that changes the position in relation to the supervision of financial services by the commission. Paragraphs 1 to 4 change certain definitions of laws and of jobs which are included in this. So it is redefining certain laws which apply and redefining certain jobs which will mean that the exemption will operate and people will have to provide the information. Paragraphs 5 to 16 deal with what has to be disclosed or can be considered. In each case a spent conviction for a relevant offence can be considered and has to be provided. Paragraph 17 allows the commission to provide information about spent convictions for a relevant offence to other similar regulatory bodies. This has to be there because otherwise that will not provide the information and co-operation with other bodies and the Financial Services Commission would be committing an offence itself. Article 6 then makes similar provisions in relation to questions asked by an employer or a potential employer. In all cases there is a duty to provide information about spent convictions for a relevant offence and this can be taken into account.

[12:45]

Finally, Article 7 brings these Regulations into force in 7 days’ time. That is a very high view level otherwise I would have to go through each individual sub-paragraph and say what it meant in detail and I am sure Members do not want to do that at this stage but I very gladly seek to answer any questions.

**The Bailiff:**

Are Regulations 1 to 7 seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? Very well all those ... the appel is called for in relation to the adoption of Regulations 1 to 7. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 37</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy M.R. Higgins (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				
Senator P.M. Bailhache				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
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 N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

**The Bailiff:**

Then do you propose the Regulations in Third Reading, Minister?

**Senator B.I. Le Marquand:**

I do indeed, yes.

**The Bailiff:**

Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading please show. Those against. They are adopted in Third Reading.

**Senator B.I. Le Marquand:**

Can I just express my thanks to the relevant officers who have dealt with these extremely boring matters and assisted me to try to make them slightly comprehensible to Members today and to Members for their patience.

**LUNCHEON ADJOURNMENT PROPOSED**

**The Bailiff:**

Very well, just before the adjournment the Chief Minister has lodged comments in relation to the amendment to Project 67 which has been presented to Members. Chief Minister, do you wish to say anything about the order of events?

**Senator I.J. Gorst:**

Yes. I just wanted to say to Members before we adjourn that I would like to take P.68 and P.69 prior to P.66 and P.67, that is the U.S. F.A.T.C.A. (Foreign Account Tax Compliance Act) ratification and the Regulations giving effect to that ratification. It is what we might call the global standard and the U.K. F.A.T.C.A. is based largely on that so it makes sense that it goes in that order.

**The Bailiff:**

Do Members agree to take them in that order as requested by the Chief Minister? Very well, so then we reconvene at 2.15 p.m. we still start with Project 68. So the Assembly is adjourned until 2.15 p.m.

[12:48]

**LUNCHEON ADJOURNMENT**

[14:16]

**8. Ratification of the Agreement between the Government of the United States of America and the Government of Jersey to improve international tax compliance and to implement F.A.T.C.A. (P.68/2014)**

**The Bailiff:**

We require one more to be quorate. Can you please summon Members? [**Approbation**] I see that Members are ready for the afternoon's discussions. We come then, as agreed before the adjournment, to P.68/2014 - Ratification of the Agreement between the Government of the United States of America and the Government of Jersey to improve international tax compliance and to implement F.A.T.C.A. - lodged by the Chief Minister. I will ask the Deputy Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion (a) to ratify the Agreement between the Government of the United States of America and the Government of Jersey to improve international tax compliance and to implement F.A.T.C.A., as set out in the Appendix to the report of the Chief Minister dated 2nd May 2014; and (b) to ratify the Protocol amending the Agreement between the Government of the United States of America and the Government of the States of Jersey for the Exchange of Information Relating to Taxes, signed at Washington on 4th November 2002, as set out in the Appendix to the report of the Chief Minister dated 2nd May 2014.

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

This is an agreement between the Government of the United States of America and the Government of Jersey to improve international tax compliance and to implement the Foreign Account Tax Compliance Act. I will hereto refer to it as F.A.T.C.A. I was pleased to sign this agreement in London on 13th December 2013 and this agreement, of course, is commonly referred to as an Inter-Governmental Agreement or an I.G.A. and I will endeavour to use those shortened terms during the course of this afternoon. F.A.T.C.A. was enacted in 2010 by the United States. It creates an information, reporting and withholding tax regime for payments made to certain foreign financial institutions and other foreign entities. It will have global application and therefore the impact is common to all jurisdictions. It places reporting obligations on financial institutions in respect of all

reportable accounts with a threat of a 30 per cent withholding tax being applied if these obligations are not met. The purpose of these requirements - and I hope that Members will focus on this throughout the afternoon, and these 2 ratifications and 2 Regulations - is to reduce tax evasion and it is to reduce tax evasion around the world, which we and my Government is committed to support through our active engagement in a number of current international initiatives. I will not go through those initiatives now but I will during the course of some of the comments that I will be making later this afternoon. Simply to say, for the finance industry, it is imperative that provision is made to ensure that payments received from the U.S.A. are not subject to a 30 per cent withholding tax and without this agreement or an I.G.A. - be it this one or the other model - that would be the case. Any threat of the tax applying, I believe and the industry confirms, would have significantly and adversely affected the Island's competitive position in attracting and retaining financial services activity in our Island. I want to pause there for a moment because that comment is crucial, absolutely crucial. Without this agreement, our financial services industry and any entity operating out of Jersey receiving payments from the U.S.A. would be subject to 30 per cent withholding tax. I make no apology for reinforcing that point because it is absolutely critical when we come to ratifying the second agreement, which is with the United Kingdom Government after, I hope, we have done this one. This agreement is absolutely critical and was critical in ensuring the viability of our financial services sector into the future. I must say that in some conversations I have had, I am not sure that everyone fully understood the implications of not entering into this agreement with the United States. Of course, for us as a government, not only was it critical for the financial services industry in regard to U.S. payments it is also important because we have very clearly pursued a policy of fighting tax evasion in whatever form it might be found and, as Members will know, it is a criminal offence within our jurisdiction to be found to be abetting tax evasion. Therefore, this fits perfectly with our legislation and with government policy in supporting initiatives that deal with tax evasion around the globe. For the I.G.A. to be brought into effect there is a need to amend the existing agreement between Jersey and the United States for the exchange of information relating to tax matters. We generally in this Assembly call those T.I.E.A. (Tax Information Exchange Agreements) which were signed in 2002 so that the provisions of that agreement on procedures and confidentiality can apply equally to the automatic and spontaneous exchange of tax information. The signed amendment in the form of a protocol, of course, has been attached to the report and proposition. Under the terms of the I.G.A., Jersey financial institutions will provide the Comptroller of Income Tax with the required information. The Comptroller will forward the information to the competent authority in the United States, that is the I.R.S. (Inland Revenue Service). The Comptroller will not audit the information provided but will check that the returns are complete. It will be the responsibility of the reporting financial institutions to provide the correct information in the correct format. The Comptroller will enforce the obligations placed on the reporting financial institutions in cases of significant non-compliance identified and reported by the I.R.S. It is important that I pause there again on that particular point because it was possible for institutions to do direct reporting to the I.R.S. Some jurisdictions have chosen that route but our industry were quite clear that they wanted this model agreement whereby it was government-to-government reporting the information. The information will be, as I have said, supplied to the competent authority and that will be forwarded on to the I.R.S. What I should also say is, as I have said earlier, that it is a global application and as at the beginning of May, the U.S.A. had signed 31 I.G.A.s but another 31 were close to being completed. The I.G.A. will, in due course, be supported by guidance notes on which the finance industry has already been consulted, not least because there are many financial institutions with offices in each of the Crown Dependencies. It is considered, and has been considered, important that, as far as possible and subject to differences of course in domestic law, the guidance notes issued by each of the Crown Dependencies should be the same for the same business area and should be issued at the same time to financial institutions in all 3 Islands. Therefore, the Crown Dependencies have worked closely together in drafting the guidance

notes and I think, again, that is a very important point that institutions operating across the 3 Crown Dependencies need to know that they can have the same processes and systems in place across the Crown Dependencies to try and mitigate costs and system costs as much as they possibly can. I hope that Members consider that it was right to have entered into this agreement and that I was right to have agreed to it because they recognise the absolute importance of having such agreement to the future sustainability of our financial services industry. Therefore, I recommend the ratification to the Assembly. Thank you.

**The Bailiff:**

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

**8.1.1 Deputy G.C.L. Baudains:**

I do not think it will come as a surprise to the Chief Minister about my views on this particular proposition because I have been very unhappy about this particular country's actions across the world, the invasion of other countries and that. I have been very concerned about the cavalier way that they collect information. The tapping of the German Chancellor's telephone was a prime example, so I believe the exchange of information with the U.S.A. is going to be one way only. Needless to say, I will not be supporting it.

**The Bailiff:**

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

**8.1.2 Senator I.J. Gorst:**

Yes, I do understand the Deputy's concerns and we have spoken of those concerns in the past, perhaps in happier times when we stomped around the same Parish and stood on doorsteps and Parish Hall steps. But what I would say to the Deputy is that, not his specific concerns, but the reason that we opted for the model agreement that we did, which is government-to-government reporting and not financial services to the I.R.S. reporting was that you put, in effect, a break institution, which I believe will go a long way to dealing with some of the concerns that he has. If the I.R.S. are concerned about incomplete returns or they think that further information should have been submitted that has not, that will, in the first instance come back to the Jersey competent authority, which is the Taxes Department, which falls under Senator Ozouf's department and they will then take it up with the financial services institution. I believe that that is a pragmatic way to deal with the issues and I believe it goes a long way to dealing with some of the concerns that the Deputy has raised. The alternative approach, of course, had we signed a different model agreement, the I.R.S. would have contacted the financial institutions directly and I do not think that that would have been satisfactory. It is not something that I would personally have supported. I think this is by far the best model because it allows the compliance with the requirements but at the same time it puts in place our competent authority to ... we could use the word: "mediate", but act in between where information may not be quite as it was expected to be. So I continue to recommend the ratification of this agreement to the Assembly.

[14:30]

**The Bailiff:**

The appel is called for in relation to the proposition of the Chief Minister, Projet 68. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 43</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.C.L. Baudains (C)		
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 P.M. Bailhache				
Connétable of St. Helier				
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				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

**9. Draft Taxation (Implementation) (International Tax Compliance) (United States of America) (Jersey) Regulations (P.69/2014)**

**The Bailiff:**

The next matter is P.69/2014 - Draft Taxation (Implementation) (International Tax Compliance) (United States of America) (Jersey) Regulations - lodged by the Chief Minister. I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

The States, in pursuance of Article 2 of the Taxation (Implementation) (Jersey) Law 2004, and following the decision of the States, taken on the day these Regulations are made, to adopt P.68 of 2014, have made the following Regulations.

### **9.1 Senator I.J. Gorst (The Chief Minister):**

These are the Regulations that will give effect to the ratification of the agreement that we have just approved and I am grateful for Members' understanding of the importance of these agreements and certainly for supporting this overwhelmingly. Of course, I am sorry that I was not in the last moments able to persuade Deputy Baudains, but I will try again on the next one. The Regulations, I hope, are straightforward and I hope that Members have had time to consider them. Regulation 1 is the interpretation and application provision, generally words and expressions as specified in Schedule 1 are given the same meaning as in the agreement. Regulation 2 makes provisions for a reporting Jersey financial institution to elect certain specified accounts, which would not normally be subject to the due diligence and reporting requirements of the agreement to be treated as U.S. reportable accounts. Members will understand that from looking at the agreement. Regulation 3 makes provisions so that where a reporting Jersey financial institution has an establishment and Jersey and (a) that establishment is regarded as permanent, and (b) the reporting Jersey financial institution is not in itself resident in Jersey, the establishment itself is deemed to be a reporting Jersey financial institution under these Regulations. Regulation 4 specifies the provision in Annex 1 of the agreement, again, around identification review and reporting of U.S. reportable accounts. Regulation 5 makes provision for the due diligence requirements in the U.S. Treasury Regulations to apply instead of the provisions referred to in Regulation 4 should the Jersey financial reporting institution wish to do so, and that is important because the similar provision in the U.K. one. Regulation 6 specifies the information concerning U.S. reportable accounts, which must be provided to the Comptroller each year. Regulation 7 makes provision for a penalty and Regulation 8 deals with offences. Regulation 9 sets out the title of these Regulations and provides that they will come into force on the day after they are made. Thank you.

#### **The Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Very well. All those in favour of adopting the principles, please show? Those against? They are adopted. Senator Ferguson, do you wish this matter to be referred to your panel?

#### **Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):**

No, thank you, Sir.

#### **The Bailiff:**

Chief Minister, you have been through the Regulations, are you content to ...?

#### **Senator I.J. Gorst:**

I apologise. I really should have waited and done that at this point but I have done it and I will address any questions that may arise.

#### **The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? Very well. All those in favour of adopting the Regulations, please show? Those against? They are adopted. Do you propose the Regulations in Third Reading, Chief Minister?

#### **Senator I.J. Gorst:**

If I may, Sir. Thank you.

#### **The Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading, please show? Those against? They are adopted in Third Reading.

## **10. Ratification of the Agreement between the Government of the United Kingdom and Northern Ireland and the Government of Jersey to improve international tax compliance (P.66/2014)**

### **The Bailiff:**

So now we come back on the Order Paper to P.66/2014 - Ratification of the Agreement between the Government of the United Kingdom and Northern Ireland and the Government of Jersey to improve international tax compliance. I will ask the Greffier to read the proposition.

### **The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion (a) to ratify the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jersey to improve international tax compliance, as set out in the Appendix to the report of the Chief Minister dated 2nd May 2014; and (b) to ratify the Agreement between the United Kingdom and Jersey amending the 2009 Agreement between the United Kingdom and Jersey for the exchange of information relating to tax matters, as set out in the Appendix to the report of the Chief Minister dated 2nd May 2014.

### **10.1 Senator I.J. Gorst (The Chief Minister):**

As I said during the previous comments, this is now an agreement between the Government of the United Kingdom and the Government of Jersey and its purpose is to improve international tax compliance. Again, I will refer to it as the I.G.A. as it has been referred to in common parlance. As I said earlier, this is based on the requirements of the United States Foreign Account Tax Compliance Act, which we have just ratified and approved the Regulations to bring into effect. When we were in the process of, I use the word: “negotiating” with the United States, (a) which model agreement we wished to approve and an understanding of how certainly our trust operations work in Jersey, the United Kingdom Government put it to us that they would like to see a similar agreement being signed with themselves. As I have said previously in this place to such an extent that they did not feel that it was right for us to sign or be entrusted to sign an agreement with the U.S. without also signing a similar agreement with the United Kingdom and we are going to come on to that point in due course when we discuss the amendment to the Regulations. That is absolutely the case and we have made that clear in our report. I would bring Members back to what I believe is the most important underlying point and that is that these agreements are about supporting other countries and jurisdictions in the fight of tax evasion around the globe. We have, as I have said earlier, absolutely no desire for Jersey, for Jersey institutions, for Jersey instruments to be used for the purpose of tax evasion. I think that there were some areas of this particular agreement, again we are going to come on and speak about them, that we argued about, not only at Ministerial level but also at officer level and we were particularly concerned in the agreement of the United States model about how the United Kingdom would deal with something that we call “res non doms” - so people who are resident but non-domiciled - which is a special part of the United Kingdom tax code and the United Kingdom has special arrangements with those individuals. Obviously the United States does not have such a concept. It looks at citizens wherever they may be and tries to squeeze them for as much as they possibly can, which is a term that has been used. Of course, I might say legitimately tax them in line with their own legislation but that is an argument for another day. We were very concerned about that particular area and there was a lot of negotiation, until we got to the point where there is, in the United Kingdom

agreement a special provision for “res non-doms”. Only limited information in regards to those individuals will be passed over as opposed to the information for everyone else. On balance, at that point, I believe and I still believe today and this is where the issue of contention is, that this agreement is in our best long-term interests. It is important that Members understand the process that we went through. We negotiated and conversed with the United Kingdom for many, many months until we got to the point of reaching agreement on what we believed was the best deal that we were going to be able to deliver for our community and, at the same time, there was in that agreement an appropriate balance in our interests as well, of course, in the important interests of fighting tax evasion that might be being undertaken by U.K. individuals using Jersey. Since, of course, that time, there have been many other global initiatives, which I believe have proved even more that we were absolutely right to sign the agreement when we did at the time that we did. We will come on and talk about that but these agreements were agreed, if I can ask Members to cast their minds back, prior to the G8 summit in Lough Erne, when the U.K. were presidents of G8. I was invited to the United Kingdom to Downing Street to a pre-G8 summit on tax trade and transparency, together with Senator Ozouf. I am absolutely convinced - and the evidence I believe proves this point - that the signing of these agreements, the acknowledgement that we were, together with the U.K. and the G8 in ensuring that we were going to fight tax evasion, was transformational and a turning point in the way that Jersey is viewed around the world. Subsequent to that, of course, we have the O.E.C.D. (Organisation for Economic Co-operation and Development) Common Reporting Standard and we have signed-up to being an early adopter in that regard. That as well is giving us positive coverage in countries that, historically, have not been supportive of offshore jurisdictions and small international finance centres like we are. I make all these points because although we might have felt that this was the way that the international tide of opinion was going, that automatic exchange of information and transparency was the general direction of travel, I do not think any of us could have known in March 2013 just quite how quickly this direction of travel was going to be undertaken. I believe that that shows that we were absolutely right to sign these agreements and they have proven and will continue to be proved to be in Jersey’s best interests. Therefore, I am pleased to be able to ask the Assembly this afternoon to ratify this I.G.A. with the United Kingdom Government. Thank you.

#### **The Bailiff:**

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

#### **10.1.1 Deputy J.H. Young:**

I think the main debate on this may take place later on in the amendment but I think I will raise the issue now. Clearly, there is a huge difference between this U.K. agreement and the U.S.A. one because we are told in the various supplementary papers. We think we are dealing with some 115,000 clients of our finance industry here, so therefore this is clearly going to have a major effect. The issue that I want to highlight is this question of the costs of compliance. There is a clear implication, but we are not given any numbers to say so, about the resource consequences on our own government administration of fulfilling the liabilities as they stand here. We do not even know what those implications are. We are told that there is no choice, I think, but to go along with it.

[14:45]

I am troubled by the principle. I raised it earlier about the concept that the Island has to be the universal, international collecting agent, regulatory agent, for all these sorts of agreements. Here we are struggling to maintain our public sector with major indications and obviously here we are taking on, if you like, hidden commitments. I accept the fact there is a possibility that some of these commitments will fall on the finance houses themselves, but some will clearly fall upon our

own Civil Service structure. I think I would be comforted, if there was, at least in there somewhere in the arrangements, some arrangement for recognition of that cost and some recovery of it. I do not think in essence that is fair. I think, clearly, what we have here is that we know that the Chief Minister said that he did not expect that the tide of international climate would move as fast as it is to put the Island in a situation where, effectively, we had to enter that agreement and therefore there is almost a suggestion we may not have had a complete free choice of that. Yet, in my mind, I still have this question: "What was our experience about low value consignment relief?" which devastated so many people in our community. So I think in principle, these commitments are unarguable but what I do worry about is having an arrangement where we are used as an executive agency required to do things where we incur all those costs and so on. I think I will support this because the principle is right but I am deeply troubled by that and I really wish that in future negotiations, the consequences for our administration and the extra costs of these agreements would be taken into account. I think I will have more to say on the amendment that is off piste to this particular one.

#### **10.1.2 Deputy J.A.N. Le Fondré:**

As a very minor comment, just picking up on what Deputy Young was saying, if I have understood from the letters from Jersey Finance and perhaps Senator Gorst can confirm when he sums up, the 115,000 clients that Deputy Young referred to is the total market and the impact on the Jersey therefore is a very small percentage. In fact, if Members look on page 8 of the comments, the impact on Jersey possibly might be 1,000. So it is not the 115,000 clients we are talking about. I think that is the only point I make on this particular proposition.

#### **The Bailiff:**

Does any other Member wish to speak on the proposition? Then I invite the Chief Minister to reply.

#### **10.1.3 Senator I.J. Gorst:**

I thank Deputy Le Fondré for his intervention and hopefully that has gone some way to satisfy Deputy Young. Deputy Young raises a very good point and it is something that I am particularly mindful of in signing-up to these agreements, that there is a cost. There is a cost to industry and there is a cost in this case to competent authorities to first of all be the recipient of the information and then be the onward transmitter of the information and *vice versa*. If the receiving country feels that further information is required or something is not quite as it ought to be. But at the same time, I hope that the report makes that absolutely clear. It is just not able at this time to quantify what amount that will be. One of the things that we endeavour to do to mitigate those costs, certainly from an industry perspective, is to work very closely with the other 2 Crown Dependencies on the policy guidelines around the detailed implementation, because often institutions have operations in at least one of our sister Crown Dependency isles. It might be a back office operation somewhere or it might be selling a slightly different product in one of the other communities. The important thing is, that where absolutely possible and where local legislation allows, as I said in speaking to the other F.A.T.C.A. that we are perfectly aligned so that those institutions only need to provide for the cost of one set of data gathering requirements and systems costs as well. Of course, there will be an economy of scale, so of course because we are signing 2 agreements today and therefore similar types of information are going to be required. So I do not accept that there is a big difference in that regard that the Deputy seems to be indicating with the U.S. agreement. Of course, that is an administration cost and we must always be mindful of administrative costs, but we also have to be careful that we do not look at what will be a relatively small administrative cost and lose sight of the - I would argue - very big cost of not being on the right side, (a) of signing these agreements and ensuring that we comply with relevant international standards and signing-up

to the standards coming out of the O.E.C.D. and being part of the Common Reporting Standard and showing that we have the ability to comply with agreements that we sign-up to. If we did not do that, the far greater cost to our economy in growth, in jobs, in people's everyday cost of living would be far greater than the administrative costs that - the Deputy is right - we should not lose sight of but we must just make sure that we are not focusing on one at the expense of the other. It is because of that that once again, I wholeheartedly recommend the ratification of this agreement to Members of this Assembly. Thank you.

**The Bailiff:**

All those in favour of adopting the Proposition kindly show? The appel is called for then in relation to the adoption of the proposition Projet 66 lodged by the Chief Minister. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 46</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Connétable of St. John		
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
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 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.P.G. Baker (H)				
Deputy J.H. Young (B)				

Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

## **11. Draft Taxation (Implementation) (International Tax Compliance) (United Kingdom) (Jersey) Regulations 201- (P.67/2014)**

### **The Bailiff:**

Then the next matter is the Draft Taxation (Implementation) (International Tax Compliance) (United Kingdom) (Jersey) Regulations, P.67/2014, also lodged by the Chief Minister. I will ask the Greffier to read the citation.

### **11.1 Senator I.J. Gorst (The Chief Minister):**

I will try and get it procedurally correct this time, if I may. I recommend the Regulations to the Assembly to give effect to the ratification of the F.A.T.C.A. I.G.A. with the United Kingdom Government. Thank you.

### **The Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Very well. All those in favour of adopting the principles, kindly show? Those against? They are adopted. In coming to the individual Regulations, Chief Minister, there is an amendment to Regulation 7, so do you want to take Regulations 1 to 6?

### **Senator I.J. Gorst:**

If I may on Schedule 1 at the same time, Sir?

### **The Bailiff:**

On Schedule 1.

### **11.2 Senator I.J. Gorst:**

As I said earlier, this agreement follows the United States agreement and therefore the Regulations follow accordingly and I would be pleased, except for Regulation 7 of course, which we are going to come on to, to answer any questions that Members might have with regard to Regulations 1 to 6 and Schedule 1.

### **The Bailiff:**

Very well. Are they seconded? **[Seconded]** Does any Member wish to speak on any of Regulations 1 to 6 or the Schedule? Very well, all those in favour of adopting those Regulations and Schedule, please show? Those against? They are adopted. So we then come to Regulation 7. Do you wish to propose that, Chief Minister?

### **11.3 Senator I.J. Gorst:**

If I may, I spoke of course about Regulation 7 when I was asking Members to agree to the ratification of the agreement because I think it is absolutely right that Members are aware of how we arrived at the alternative reporting standard to deal with “res nom doms”. We are about to come on to an amendment that shows that Ministers were not united in believing that this particular Regulation was appropriate. As I said, the negotiation and conversation about this agreement took

many months. We did it in concert with our 2 sister isles. Towards the end of 2013, of course, the Isle of Man decided that it was then satisfied with the agreement that had been reached with the United Kingdom Government and agreed to the document as it then was. We therefore, at that point, worked with our colleagues in Guernsey. At some point, we worked together and undertook a similar strategy and at some points we took a slightly differing strategy to try and deal with this particular concern that we had around how “res non-doms” were going to be treated. I have no doubt that the mover of the amendment to this Regulation is going to say that they believe that the correct balance was not struck and may draw on the fact that it is the belief of the mover of the amendment that the U.K. should not be asking us to provide information about their taxpayers, which they themselves are not prepared to ask for. That is a legitimate point to make and it is a point that I, and my officers on my behalf, took up very vigorously with the United Kingdom Treasury and we ended up with the alternative reporting provisions that we currently have in this agreement, which are not accepted by the mover of the amendment. I would simply say, in moving this Regulation, that these agreements are about ensuring that Jersey is not being used for tax evasion by citizens, either of the U.S.A. in regard to that agreement, or the United Kingdom in regard to this agreement. The “res non-dom” requirement is a piece of U.K. tax legislation. It is something that the U.K. allow for residents within its community and I have to say that if the United Kingdom Government is concerned that potentially some of those individuals may be using some structures here for the purpose of tax evasion, then we want to be shoulder to shoulder with them in ensuring that that is not happening. That is why it is important for this information to flow in the way that the alternative reporting provisions allow for. We are no doubt going to go on and have our debate now about the amendment and I will no doubt be making comments at that point. I think it was important that Members (a) understood the history and (b) then understood why it was that ultimately I agreed with this alternative reporting standard and did not take the position that the mover of the amendment is now going to explain to the Assembly.

[15:00]

**The Bailiff:**

Is Regulation 7 seconded? **[Seconded]** Very well.

#### **11.4 Draft Taxation (Implementation) (International Tax Compliance) (United Kingdom) (Jersey) Regulations 201- (P.67/2014): amendment (P.67/2014 Amd.)**

**The Bailiff:**

As the Chief Minister said, there is an amendment to Regulation 7, lodged by Senator Bailhache, so I will ask the Greffier to read the amendment.

**The Deputy Greffier of the States:**

Page 13, Regulation 7 – (a) in paragraph (4) after the words “of the Agreement, except” insert the words “, if an Act under paragraph (7) is in force,”; (b) after paragraph (6) add the following paragraph – “(7) A reporting Jersey financial institution shall be required to comply with paragraph (5) or (6) only from such date that may be specified by Act of the States.”

**The Bailiff:**

I invite Senator Bailhache to propose the amendment.

##### **11.4.1 Senator P.M. Bailhache:**

I should like to open this debate by saying that it is a matter of deep regret for me that I find myself on the opposite side of the argument from the Chief Minister and from the Minister for Treasury and Resources. It will be obvious, I am sure, that I feel very strongly about the issue that divides us. The first thing that I want to underline is that the States Assembly is a different institution from



the Government of Jersey. The Chief Minister has signed this I.G.A. on behalf of the Island's Government and not on behalf of the States, the Legislature. There is nothing in law or as a matter of our constitutional relationship with the U.K. that prevents the States from adopting this amendment. There would be no question of dishonour if the States defer the implementation of part of an agreement signed by the Chief Minister. It is a matter of political choice. Indeed it is the duty of the States to scrutinise very carefully every international agreement presented by a Minister for ratification. If there is a duty to scrutinise, there must be a power to refuse to ratify or, in this case, the lesser power, to defer implementation of the agreement in part. If that were not the case the States would be just a rubber stamp. So I am going to ask Members to look at the merits of the argument. What is in Jersey's interests? That is exactly as the Chief Minister has put it to the Assembly. Is it in our interests to defer the implementation of the I.G.A. in relation to the "res non-doms", if I may use that shorthand, those people who are resident in the U.K. but not domiciled there and accordingly not generally liable to pay tax on foreign income. The "res non-doms" were, and will be for at least the next few years, an important market for us. The Capital Economics report states that, and I quote: "Thirteen per cent of the funds held, administered or managed in Jersey, over £150 billion originated from non-doms resident in Britain but not liable for tax there on their foreign income, making Jersey a major conduit for non-dom foreign wealth." Much of that wealth is administered by trust companies and it is some of those trust companies which have expressed their concerns to me, as well as some other individuals. Their concerns are, in short, that there is no level playing field. They say that non-dom clients have concerns in part about the loss of their confidentiality and in part about the costs involved in paying someone to report on every transaction that they undertake. In Switzerland and Singapore, among others, such intrusions into their confidentiality and such costs would not be an issue. Under the agreement between the U.K. and Switzerland, for example, the non-doms would not in most circumstances even have to disclose their identity to Her Majesty's Revenue and Customs. The result of this mismatch, or this unlevel playing field, is that some business has moved from Jersey and some more will move. More significantly, I think, some business which would have come here will be posted elsewhere. The total value of lost business is of course uncertain, unknown and unquantifiable but there is no doubt that there have been losses and there will be more losses if the I.G.A. is implemented in whole at this stage. Yesterday evening the Chief Minister circulated a report and a letter from the Chief Executive of Jersey Finance Limited. I must say that I am sorry that the Chief Minister circulated the letter because I have the highest regard for the Chief Executive and I would have preferred that he had not been drawn into what is essentially a political dispute. However, it has happened and I am sure that Members will be paying close attention to the letter from the Chief Executive. I have to say that the letter is not, in my view, a balanced assessment. The finance industry is not a homogenous entity but is made up of various different pillars. The interests of the bankers, the fund managers and those involved in the capital markets are different from those involved in trying to bring foreign fiduciary business into the Island. But nowhere in the letter is there any suggestion that some of the latter may support the amendment nor is there any substantive reference to the arguments in favour of the amendment. I spoke last night on the telephone to the author of a leading text book on offshore tax planning who is a member of Jersey Finance. He had made representations in support of the thrust of the amendment but there is no mention of that. I could spend too much time on the letter. Paragraph 12 suggests that Jersey would become an "outlier" if the amendment is adopted. But the truth is that Jersey will become an outlier if it is not adopted. We will be different from Switzerland, from Singapore, from Lichtenstein, France, Germany and the others because only the Crown Dependencies and the overseas territories will have the obligation to report in this way on "res non-doms". Paragraph 13 of the letter suggests that refusing to ratify the I.G.A. would row-back on transparency but we are not refusing to ratify. In fact, as Members will know, we have just ratified the I.G.A. What is in question is deferring the implementation of part of the agreement and that is something which is very different. There is a

distinction between the transparency agenda which we all, I am sure, support and the means of achieving that transparency. I will not go on because I regret that an excellent Chief Executive has been drawn into this dispute. How do we come to be in this unfortunate position? I cannot avoid saying that the United Kingdom Government has in relation to this matter not respected the constitutional relationship and in particular our fiscal autonomy. It is for Jersey to decide whether and to what extent confidential information about our clients should be given up. We take great pride in our compliance with international standards but this is not about international standards. This is about being compelled by the United Kingdom Government to give information about our clients which is not given by our competitors. I say “compelled” because this agreement would not, I believe, have been signed in this form were it not for the fact that we needed an I.G.A. with the United States, as indeed the Chief Minister has just emphasised so strongly to us. It would not have been signed were it not for the fact that we needed an I.G.A. with the United States and the U.K. would not assent to the signature of that Jersey/U.S. agreement unless we agreed to these terms for the Jersey/U.K. I.G.A. Furthermore, and this is the final straw to which I referred in my report, this confidential information about “res non-doms” is not even being asked of their own taxpayers by H.M.R.C. (Her Majesty’s Revenue and Customs). We are being asked to provide information that H.M.R.C. is not prepared to require their taxpayers to provide on their own tax returns. So I have no qualms about inviting Members to defer the implementation of part of the I.G.A. We will ratify and implement the I.G.A. in relation to “res doms”, those who are resident and domiciled in the U.K. just as the other Crown Dependences and overseas territories have done or will do. But in relation to the “res non-doms” who do much less business in the other territories, we should, in my view, defer the coming into force of this part of the agreement until there is a level playing field in 2 to 3 years’ time. There is no doubt in my mind that almost everyone, both in the finance industry and in government, believes that in principle this carve-out for the “non-doms” would be the desirable outcome. If the Chief Minister had been offered this outcome by the United Kingdom Government, he would have accepted it with alacrity. No one has suggested to me that the state of affairs which would be brought about by the adoption of my amendment is not from Jersey’s perspective highly desirable and I hope the Chief Minister will accept that proposition when he speaks. So why do we not all agree to do it? The answer to that question was, although the ground has shifted slightly, that influential voices in the finance industry do not wish to risk offending or upsetting the United Kingdom Government. It is said that this is a relatively minor issue and that there are more contentious issues, including the suggested public register of beneficial ownership of companies on the horizon. We must not risk unsettling, they say, the present good relationship with the United Kingdom Government which will stand us in good stead later on. Now members of the finance industry are of course entitled to their views, and indeed I understand why they prefer to sail in calm waters, untroubled by squabbles between governments, but I am afraid that I cannot accept this approach. It is just not the way that international relations work. International relations are no different in essence from human relations. In both spheres if we stand up for our principles, one will be respected for it. Adoption of this amendment would not, in my view, affect our good relationship with the United Kingdom Government in the slightest.

[15:15]

The U.K. would accept the democratic position that on a matter of this kind the Legislature has the right to reach a different position from that of the Government. I ask Members to think this through. Do we really believe that the Prime Minister, who has committed himself very publicly and firmly to the proposal that all countries should have public registries of beneficial ownership, is going to be influenced in our favour by Jersey’s acceptance of an I.G.A. that is not entirely in our national interests? Is he really going to say to himself when we tell him that his proposal, other than on a very level playing field, would be damaging to Jersey: “Well Jersey behaved very well on the I.G.A. so I will not press it for them”? I am afraid that that is cloud cuckoo land. Whatever

Members decide to do in relation to this amendment, the United Kingdom Government will pursue its own political interests, and if I were in their position I would do exactly the same thing. On that issue of a public register, we will have to argue our case and stand firm. There is another reason why I do not subscribe to the industry's approach to international relations. The notion that the U.K. will be nice to us if we do not defend our national interests is as false as the notion on the other side of the coin which is the fear that something nasty will happen if we presume to stand up for our interests. The United Kingdom Government is not, in my view, going to be as petty as that. Of course it will seek to advance its national interests, if necessary at our expense, as it did with L.V.C.R. (Low Value Consignment Relief) but it is entitled to do that. Every government has a duty to promote the interests of its own citizens. The U.K. Government's position as set out in my report is that they want this information about "res non-doms" because they suspect that some may be remitting foreign income to the U.K. and not declaring it. The information is therefore required to prevent tax evasion. The Chief Minister's report lodged yesterday evening re-states the United Kingdom Government's position. My answer to that is that in every country there are tax evaders, but my discussions with the Financial Services Commission and with industry suggests that any evasion by "non-doms" would be on a very small scale. What is important is to balance the possibility of such evasion against the known damage to Jersey's economy of imposing reporting requirements in respect of all "res non-doms". The trouble with the I.G.A. is that the cure is disproportionate to the ill. Because a very small number may be cheating, and I must underline that there is no evidence that they are, every "res non-dom" is required to have the confidentiality of his business affairs broken down. It is as if the Minister for Treasury and Resources, learning that people in Jersey might not be declaring all their bank interest on their tax returns, were to propose a law which required the banks to give the Comptroller of Taxes information about all the income received by every resident in Jersey without any by your leave. The cure would be disproportionate to the ill and so it is with the I.G.A. I believe that this will be a deterrent to doing business in Jersey and damaging to us. The Chief Minister's report does not really deal with that imbalance, nor does it deal with the obvious disadvantage of being placed on an unlevel playing field. It is not a fairly-balanced agreement for the reasons I have given. I ask Members therefore to defend our fiscal autonomy, to defend the interests of Jersey's trust industry and to defer the implementation of part of the I.G.A. until such time as there is a level playing field in 2 to 3 years' time, and I accordingly move the amendment. Defending the interests of Jersey is not, in the eyes of any fair-minded or reasonably-objective observer, going to cause damage to our reputation. I move the amendment.

**The Bailiff:**

Is the amendment seconded? **[Seconded]** Deputy Higgins.

**Deputy M.R. Higgins:**

Just a point of clarification from the previous speaker, he has been alluding to other threats that are on the horizon and I think we need to understand what he is saying. In relation to those threats he mentioned, I think it was, the register of beneficial ownership. Can the Senator advise Members what this threat is because we already have a register of beneficial ownership at the present time? What changes are envisaged?

**The Bailiff:**

It is a matter for the Senator if he wishes to deal with this.

**Senator P.M. Bailhache:**

I am sure the Chief Minister will address this point perhaps in due course but the proposal of the Prime Minister of the United Kingdom is that every country should have a public register of beneficial ownership, that is to say, a register which is open to the man in the street so that anyone

can go along and see who are the beneficial owners of companies. That is very different from a register of beneficial ownership which Jersey has and most other countries do not have, where the authorities know who is the beneficial owner and can give that information to foreign investigators, tax investigators and so on but it is not publicly available, as it were, on the Internet.

#### **11.4.2 Deputy R.G. Le Hérissier:**

On a point of clarification, the proposer has made great play about the considerable difference that has opened up between him and the council. Can he confirm that were he to lose this he will resign?

#### **The Bailiff:**

This is not question time, Deputy. Now, Chief Minister.

#### **11.4.3 Senator I.J. Gorst:**

Today is not one of those days that I feel my job is boring and every day is the same as the other. Can I just start by saying that like Senator Bailhache, this really gives me no pleasure whatsoever to be here at this point in the Assembly having to say the things that I feel I have to say in Jersey's best interest. I have been honoured with this office now for the best part of, I think it is 2½ years. There are not many months left to go until I go to the electorate and ask them to give a verdict on my time in this seat, and they will rightly decide because we live in a democracy. One element of my job which is largely unseen, apart from now that I have Twitter and people seem to be able to see from photographic evidence where it is that my head seems to be laid on any given night wherever it is around the world, we are touching on today and that is our relationships with other countries, with other jurisdictions and, by necessity, having to conclude agreements with those other countries and those jurisdictions. I have and will continue to endeavour in those engagements and in all those agreements to act in Jersey's best national interest and I will come back to that point later in my speech. But during the course of those 2½ years the world has changed. With regard to financial services - which I would remind Members is still our major economic driving force - the requirements upon it have changed beyond all recognition. Two and a half years ago if I had stood in this Assembly and said that everyone would be going down and following the United States of America with F.A.T.C.A., that the O.E.C.D. would be developing a Common Reporting Standard and that over 50 countries would be in the early adopters, and that we would have seen what we have seen with regard to changes of attitude towards dealing with tax evasion, dealing with the proceeds of crime and dealing with the automatic exchange of information; the world has changed. It is not changing, it has already changed. The things that I am asking the Assembly to agree to today are already now accepted parts of what it means to do business as an international finance centre. I say that because - I hope that I am not known for political spin - I am confident about Jersey's future. I am confident about Jersey's future and its future as a small international finance centre because, by and large, when we look back, we have made the big calls correctly. The big calls in the last 2½ years have been to agree to the 2 F.A.T.C.A.s and, as I said, the Common Reporting Standard and the work of the O.E.C.D. to support the G8 in their fight against tax evasion. I stand by absolutely those decisions because I shudder with fear to think where we would be now had we not made those decisions. I am not a prophet, I am a simple politician. But there are some in our community who still wish to look back. They wish to look back to the days prior to the change that we have seen. It disappoints me to say that I too, like the mover of the amendment, could find some individuals in our community who do not accept that their new standards around automatic exchange of information are in our best interests. They want to continue with a model that I believe is not part of our future and it is important that we set the context. We have a future. I believe we have got a positive future. I believe that these 2 agreements, without the amendment, are in our best national interest. I wish to now spend some

time perhaps talking about the detail of what is being proposed and talking about the calls that we have made and the positions that we have taken which I believe could very easily, but inadvertently, I admit, set us back upon. So we as a Government have committed, as I have said, to joining the fight against tax evasion and I do not just stand up and say it, I can evidence it. We are a member now of the Global Forum on Transparency and Exchange for tax purposes. As I have said, we have joined the early adopters for the O.E.C.D. Common Reporting Standard which was adopted by the G20 Finance Ministers at their meeting in February of this year. There are now 44 countries committing to that early adopter process. Our competitors, Switzerland, Singapore and I think Luxembourg, while maybe not being early adopters, are committed to that O.E.C.D. global reporting standard.

[15:30]

As I have said, we joined with the G8. We published our action plan and we have spoken about the excellent, first class leading regulation that we have for our trust and company service providers. Senator Bailhache spoke a little bit about central registers of beneficial ownership. We joined the Multilateral Convention on the Mutual Assistance in Tax Matters on 1st June this year as provided for by the convention. As a mark of respect for the work that we have undertaken, we have been appointed as a Vice-Chair at the Automatic Exchange of Information working group on the global forum. That sends out to me, and I hope it sends out to the world, that we are part of the new agenda, that we are working positively on Jersey showing that we are committed to these standards, showing that we can deliver on these standards and that is being understood, accepted and respected. If that were not the case, we would not have been invited to act as Vice-Chair of this very latest working group which is ensuring that countries comply with these standards of automatic exchange of information. It shows to the world that we are a comparative jurisdiction which complies with international standards. Of course today we are looking at the 2 inter-governmental agreements, not to mention the normal statistics that we often talk about and that is that we have been rated by the global forum as largely compliant, a rating that matches Germany, the U.K. and the U.S. It is not just the international standard setters that are recognising the path that we have taken and the story that we have to tell, the United Kingdom Prime Minister as well, during question times in the United Kingdom Assembly, has acknowledged that we, along with other Crown Dependencies and overseas territories, should no longer be considered as tax havens because of all the work that we have undertaken, because of the agreements that we have signed-up to. For a small jurisdiction, reputation is extremely, extremely important. It can take many months and many years to build a reputation but it can be, I am afraid to say, lost sometimes in an instant and we must be careful that we do not do anything in that regard. The mover of the proposition believes that there is only a small risk of “res non-doms” using Jersey to evade tax. That is not the view of the United Kingdom Government because if I go back over what I said earlier, all the points that Senator Bailhache has made today have already been argued with the United Kingdom Government and that is why we arrived at the alternative reporting process that Regulation 7 is. The mover of the amendment wishes to write-out the alternative reporting standard, which is to override the negotiations and the conversation that we had with the United Kingdom Government prior to signing the agreement and is asking the Assembly to say that despite the negotiation, despite the conversation, despite this, as I said earlier, being the one point that we had to argue long and hard over, it does not matter that we reached agreement today, you are being asked not to accept that agreement but to go and instead consider a different approach. So without evidence the mover is saying that there is little risk of tax evasion. That is not the view of the United Kingdom Government. I do not wish to cast aspersions on anyone but it is known that those individuals who might be setting up an account in Jersey, up until very recently it was a self-certificating process whereby those individuals said that they were “res non-doms” for U.K. tax purposes. So I am not saying that they are evading tax but I am simply saying that the process in place might lend reason

to the argument that the U.K. Government made to me when I was raising these very points, the fact that there was, until very recently, only a self-certification process in a number of the banking institutions in Jersey. Therefore, I do not think the contention of the mover of the proposition can be accepted in the way that he has asked us to accept. The mover of the proposition said some things with regard to Jersey Finance Limited which, to my mind, were unfortunate and I do not wish to dwell on those comments. I would simply draw Members' attention again to the letter from Jersey Finance and I do not think we would want to put ourselves in a position where we are not being cognisant in our decision-making of a very reasoned, considered and consulted-upon position of Jersey Finance Limited. Let us deal with the issues and not with the individuals because that is upon which we should make our decisions in this Assembly. When we were negotiating this agreement, it is absolutely right that finance industry were extremely concerned about this particular carve-out of the agreement, as I was, as the Minister for Treasury and Resources was and of course as Senator Bailhache was. But with the passage of time, as I have said, their concern, as Members will see from their letter, has reduced and it has reduced because of the international initiatives being undertaken. Because even if Members were to accept the amendment, what are these individuals going to do? Are they going to move their structure to somewhere else where the international standards are going to catch up with them in probably 2 years anyway because of the Common Reporting Standard? We must remember that there is quite a cost associated with moving one structure from one jurisdiction to another, so you would want to do it for a good period of time. The other question that one would have to ask is: why exactly were those individuals wishing to move for that short period of time? It is only limited information exchange. As I have said, there is already an alternative reporting standard being carved out so why would they be moving? I am not sure that we can answer that question satisfactorily. The concern at the time of signing the agreement I acknowledge, but the level of concern has, without doubt, changed as we can see from the letter from J.F.L. (Jersey Finance Limited). The other issue I want to just touch on, and I will try not to speak for too much longer, is financial loss to Jersey. The mover of the amendment makes some, perhaps I can use the term "sweeping statements" about business loss: I think the term he used is, on a "daily basis". I cannot accept that contention and I see from the Jersey Finance letter that nor do they accept that contention. I think that the body representing the industry with regard to economic leakage and financial loss is the one that we must be cognisant of, not simply individuals that any Member of this Assembly might anecdotally have told them about a particular piece of business that might have been lost. For example, I know that some partners of some firms in our community will argue that they are losing business; other partners will argue, no, they have not lost any business. In actual fact, Jersey being compliant with these new international standards is bringing business to Jersey. So we must go with what the bodies set up to deal with these issues is telling us and not just from an anecdotal perspective, if I might say such a thing. I tried to make it clear to Members throughout the debates that we have had this afternoon on these issues that these agreements are about fighting tax evasion in the particular instances by U.K. citizens or by U.S. citizens with regard to the Common Reporting Standard, is about global citizens. I would ask Members this question: do they this afternoon want to be on the wrong side of the fight against tax evasion because I do not? It is not acceptable, it cannot be acceptable, and it is not part of our future as a strong, thriving, international finance centre. We may not have liked how we have got to the point that we have got to today but I believe wholeheartedly that if Members accept this amendment that is the message they will be sending out to the world at large. We could expect, I believe, to see considerable criticism of us for the decisions that we have made, for the agreements that we have signed-up to, for the way that we have endeavoured to comply with international standards, at this very late day, to be saying, because we did not like the process, because we think there might be some economic leakage that is doubted by the Jersey Finance paper, we are not going to comply until we are absolutely required to do so by the Common Reporting Standard. That 2-year window, I believe, is not a risk worth taking. I absolutely am convinced that is not in

our national interest. Of course, Members might say: “Well, Chief Minister, you would say that. You were the one that did the negotiation, you were the one that signed the agreement.” I did that because I believed, with all the information in front of me, with a balance that had been achieved, that it was absolutely in our national interest. I believe with the same conviction that if we accept this amendment today it will be detrimental to our national interest, and it will set us back on the road to a positive future that I believe that we have. Therefore, it gives me no pleasure whatsoever but I must, in the duty that this Assembly has conferred upon me, implore Members not to support this amendment but to implement the Regulations to give effect to the I.G.A. in full and send a message to the world that Jersey will not, in any way, shape or form be used, or be allowed to be used, for tax evasion. Thank you. **[Approbation]**

#### **11.4.4 The Deputy of St. Ouen:**

As a member of the Corporate Services Panel, I have had the opportunity, not only to question the proposer about this matter but also receive a briefing from the Chief Minister and his advisers, including new international adviser - I think is the right phrase or name to use, title - Mr. Powell. Equally, I have listened very carefully today to the proposer’s speech and equally the response made by the Chief Minister. I am certainly left in no doubt that accepting this amendment would not only not be in the best interests of the finance industry as a whole but also would not be in the best interests of the Island and the reputation that we are developing.

[15:45]

I accept that there could be some businesses that may lose out. However, all the Senator is proposing is deferring a decision, ultimately, one could argue the suggested day of reckoning that will come if the States, and when the States, agree to dealing with “non doms” as is being proposed. The Senator speaks about defending the Island’s political autonomy and standing up for the Island’s best interests but this is where I have got the biggest problem, I fully respect the views of the Senator but sadly on this occasion he seems to have forgotten the position that he has been elected by the States to represent, and that is the Minister for External Relations, and all the responsibilities that go with it. I absolutely know that the Senator is very committed to the job and has been involved in many, if not all of the discussions on all sorts of matters, which include this one, over a number of months, if not years. This is where the problem lies because these agreements are not reached simply by a few States Members getting together, whether they have been Chief Minister or others and deciding on their own that they should enter these agreements. They seek advice, professional advice and most from financial experts and, indeed, experts within our civil servants and perhaps, more importantly, experts and civil servants who operate within the department that the Senator is responsible for. I, like many in the past and certain Ministers today, have argued the case against perhaps a view that was different across many of the Council of Ministers. However, ultimately, one has got to accept that there is a wider responsibility, not only to the Council of Ministers but this States Assembly and to the Island as a whole. I am standing here today - yes, I will use the word - pleading with the proposer to really consider whether or not to pursue with this debate and this amendment. I do believe he has made a case and he has expressed his view, which is absolutely right. I equally believe that there are far greater issues and potential effects of pursuing this particular debate. I stand to ask the proposer, please, would you consider withdrawing your amendment? **[Approbation]**

#### **11.4.5 Deputy J.A. Martin of St. Helier:**

It is good to follow the Deputy of St. Ouen and obviously it does not look like the mover of the proposition is going to withdraw, which is a shame but we are where we are, as they say. It was interesting when the mover, Senator Bailhache, opened the argument saying: “Now we are the Legislature. We, the States Assembly, should overturn a promise given by Government” which he

is in. He is lucky it is this year and not next year because he would not have even been allowed to bring this amendment under collective responsibility. But very subtle there and that is the very first time I have heard him say that this Assembly overrides or this is your opportunity. The Senator is smiling. As they say, you can look at things in different ways. But do we want to overturn the promise? It was the promise from the Council of Ministers, our Chief Minister, to bring this legislation in. Also in the Senator's speech he said, and forgive me if I am wrong: "Non-doms, and there would be a very small number, might cheat but very unlikely." But if there is that few what have the rest got to worry about? What have we got to worry about? We know this is what is wanted. I know and I heard a few stamping feet from over different benches and different seats when the proposer said: "We should be standing up for ourselves and standing up against the U.K. Government." We are quite a very small island and we have already made this promise and the time is moving on. When was the last time we stood up to the U.K. Government? That was under L.V.C.R. The proposer used this as a reason to really stand up to the Government of the U.K. The U.K. Government did give a warning shot across the bows to Jersey and as early as 2004/2005 and said: "Do not go there and if you do keep insisting on going there we will stop it." They did stop it and they had very deep pockets to fight us in court. Do we want to make an enemy again of the U.K. Government? No, we do not. The Constables of St. John can go on their own. **[Laughter]** They can absolutely sit out there on their own. That is another thing, we all know with the last time - and this is no insult to the proposer - the last time he went off mooted his own ideas about Jersey's independence the finance industries across the world, especially in Jersey, went spinning out of control. The Chief Minister had to go backtracking saying: "It was not the Council's policy and it had not ever been mooted by them" but we get this underlying theme. As for the letter we received, and it is not 2 versions, this is the version that we all received, the proposer was - I cannot remember the words - upset, disappointed that the Chief Executive of Jersey Finance had written to us after consultation with the finance industry and I quote at 14: "In summary, industry consider that the adoption of this amendment would be harmful to both our reputation and relationship with the U.K. and have an overall damaging impact on business and produce little or no tangible benefit." It says "overall". This body we put up - I have sat on Scrutiny, it used to be £1 million or £2 million - we give this body £6 million or more to go around the world and promote Jersey. We also ask them to tell us if there are any laws or any treaties that we need to be signed-up to to make sure we have got money and the finance industry carries on in Jersey. I apologise that the Senator thinks he is disappointed that these were drawn into this debate. I would be absolutely disappointed with this body if we were not fundamentally guided in one direction or another. It looks like they have consulted and probably have. This comes from them but the Senator spoke to a member of Jersey Finance or he was in a financial position, I am not quite clear. What I am saying is we have agreed to this. Our Chief Minister has agreed to this. I absolutely say, after reading the Jersey Finance comments last night, you, us, this States Assembly disregard what was promised by the Government our Chief Minister acts at our absolute peril because in 2 years' time you might be chasing that boat with the finance industry on it, like we are still chasing L.V.C.R., and we will never get it back. We have not got the money to fight the U.K. and we are not renegeing on our promises. This amendment should be thrown out and if the Senator is not going to withdraw it everybody must vote against.

#### **11.4.6 Deputy R.G. Le Hérisier:**

It is very hard to follow the Deputy of St. Ouen and Deputy Martin but I would like to raise the point about collective responsibility because I know the Member is an honourable Member and presumably he subscribes to the principles. But it seems absolutely ludicrous that the Minister for External Relations, who is tasked, as the Deputy of St. Ouen has mentioned, to reflect the views of the Jersey Government to foreign embassies and agencies and so forth, that he has a diametrically opposed view of how the major industry should be managed to that of the rest of the Government.



It just strikes me as utterly ludicrous. Surely, taking the broader view of collective responsibility, if he is, as he is, an honourable man, if he loses this debate it is not a question of just people not voting against it, as Deputy Martin said, if he loses this debate he must resign. **[Approbation]** It is a fundamental issue where there is massive divergence between his views and the views of the Council. Surely, the whole aim of collective responsibility is not a rigid adherence to a common policy, is that there is a good debate, a good discussion within the Council, as we used to have on committees: you win some, you lose some. But if there is an absolutely immovable point of principle upon which you will not be moved then you say: "I am sorry, I cannot accept that particular point and I have to go." That is the way it is handled. The notion, for example, of William Hague saying: "I want to invade Syria. I am the Foreign Secretary. I want to invade Syria and I am going to the House of Commons to get a mandate to do that, despite what the rest of the Cabinet feels" is absolutely ludicrous. He would never, ever get that far. It is only because we have got this rather archaic system here that we can get that far. I, like Deputy Martin, say please, please, either resign now or withdraw the proposition or perhaps both.

#### **11.4.7 Deputy G.P. Southern:**

It is very hard to follow all the previous speakers **[Laughter]** they just keep getting better. I hope not to let you down. Right, so here we are in the 21st century. Jersey, welcome to the 21st century and our Minister for External Relations, welcome to the 21st century. I think you appear to be stuck in the 14th. The Minister appears to be stuck in the 14th. It is crunch time. We have had months and months, years and years of arguments like there is not a level playing field, so, therefore, we are not doing anything. We have had months, years, of mouthing the same old set of words. Of course, we are vehemently against tax evasion and tax fraud. We may even be against, but we cannot define it, aggressive tax avoidance but we are definitely against tax evasion and tax fraud. Here we have the statements: "Cross-border tax fraud and tax evasion are serious problems for jurisdictions all over the world, small and large, developed and developing. Co-operation between the tax administrations is critical to the fight against tax fraud and tax evasion. Jersey's full commitment to join the fight against tax evasion is evident." Here we are, we are committed to fighting tax evasion and tax fraud, except, according to the proposer of its amendment, when it comes to the fact that we might lose some of our profits, might lose some of our clients. There is a risk of that. Sorry, we are not doing it. We are completely committed to fighting tax evasion but in this case we are not doing it because we might lose some money or some clients. Here again we roll out the non-level playing field and those people will go off to Luxemburg, Singapore, Switzerland we will be losing out. When our own self-interests, our own profit line is hurt then all of a sudden we are less against evasion and tax fraud and that is what we are talking about because the U.K. Government is convinced that there may be a mechanism if we do not sign-up for this that tax fraud is going on.

[16:00]

Of course, we have got to sign-up for it, why would we not? We are told why we would not. At length in the correspondence in the message from Jersey Finance which says very clearly: "In adopting the amendment Jersey would become an outlier. Neither Guernsey nor the Isle of Man would appear to be taking a similar position with regard to their respective I.G.A.s." Where "resident non-doms" in the U.K., a lot of them are spread around those exact 3 islands because it is very close to the U.K., close to Europe, all the advantages that we always hear about why we are a low-tax jurisdiction and why they are here. But I would take a stage further, we would not just become the outlier, we, once again, would become the black sheep. I will use another black word, if you want to be on a black list again, like we were some years ago, then vote for this amendment because as sure as eggs is eggs we will be on an international black list saying: "These people talk the talk but they do not walk the walk. They are leading committees, Jersey leading the way in tax

evasion and tax co-operation but when it comes to the crunch they will not sign-up. They are hypocrites.” The 21st century when governments around the world start becoming increasingly aware about how much tax for activities in their countries they are not collecting, whether it is from very wealthy people or very wealthy companies, their tax is going everywhere, offshore, elsewhere. Because they have to respond to the worries of their voters increasingly they are going to come for that missing tax. This is only the first step. But we are urged that plucky old Jersey should get up and fight the U.K., let us get realistic, will we? As much as I look forward to the sight of the Constable of St. John punching his weight with Dave Cameron or Osborne - what a fun sight that would be - I do not think we are going to win it, even if our representative is the Constable of St. John. Here we come to the most corrupting statement that I have heard in this House for many a year, when we are urged by the proposer of the amendment to stand up for our principles. What are all these promises about fighting tax evasion, about transparency, about co-operation? What principle is there in fighting for this little corner that may be subject to tax evasion and not co-operating? What principle is that? That is the principle of everything. All my principles get thrown out when I look at the bottom line. That is the only principle left, what is the bottom line? This is venal behaviour. This Government should not be doing it. I am surprised that the proposer of this amendment has not already resigned or been asked to resign because this is serious stuff. This is not a family feud, a family spat. This is serious stuff. This is Government. The Minister for External Relations should not be bringing this amendment and if he does he should be ashamed of himself.

#### **11.4.8 The Deputy of St. Martin:**

I sense an unease in the Assembly this afternoon and I do not take it lightly and I do not laugh about it. I agree with Deputy Southern inasmuch as I have sensed that this unease has come about by the fact that we have 2 very senior Ministers that sit side by side disagreeing with each other this afternoon on the subject of the utmost importance. I am also uneasy. I am uneasy because I am uneasy about supporting those that would say to me: “If you do not pass this amendment this afternoon I am taking my money away to another jurisdiction.” Because I am uneasy about supporting tax evasion and I am uneasy about supporting the perception of tax evasion. But, most importantly, I am uneasy because I am not in the habit of sending my Chief Minister to the U.K. to sign major agreements and then refusing to ratify those agreements when he returns to this Assembly. Notwithstanding the subject of any agreement that the Chief Minister signs on our behalf, it is my belief that there is no precedent in this Assembly for not agreeing to ratify something that the Chief Minister has signed on our behalf and I do not intend to support something that would set that precedent now.

#### **11.4.9 Senator L.J. Farnham:**

With each speaker I am crossing lines out of my already short speech. I would probably start by just bringing up the subject of collective responsibility and I find it quite ironic that Members of the Assembly who are fierce supporters of collective responsibility are now baying for Senator Bailhache’s blood because he is stepping outside the ranks. It is quite hypocritical because those Members have been defending the rights of Members, whether they are in the Government or not, to bring propositions, whether we agree or disagree and I think we should respect that. Just a word of warning firstly, how we brush off lightly the potential damage that other governments can do to us and we saw Jersey attracted some negative publicity in the French media shortly afterwards. I am not saying they are connected but I suspect that it did not help that we found ourselves on a black list, which could have been quite catastrophic for the Island’s industry. We ignore the advice at our peril because really in the real world, if we are honest, we might think that the world revolves around this important Assembly but it does not and it hurts me to say this, I am afraid, we are rather insignificant to most major governments. It is not a vote winner to support a Crown Dependency

for national parliamentarians, so we always have to fight hard and we have to remain skilful at what we do. I just wanted to finish by saying, Deputy Luce said it eloquently, this rather sort of odd juxtaposition that Senator Bailhache is proposing I do not think it can work, given the comments we received from the Council of Ministers and the Chief Minister and I will leave it there.

#### **11.4.10 Deputy M. Tadier:**

I am happy to be supporting the Government today insofar as I am somebody, and I hope that we all share this view, that we want to see a sustainable and ethical finance industry, and that is what I always tell people and I will continue to do that. That does not mean, of course, that we have perhaps different interpretations and different meanings that we attribute. For some of us, of course, the fight against evasion does not necessarily go far enough and we do want to see a fight against aggressive tax avoidance but avoidance in general because we know that wherever we live - and Jersey must be included in that - we have a global responsibility. We are not just citizens of a small island. We are citizens of a wider world and the world being of our fellow neighbours, whether it is shortly across the water or very far across the water, has to be taken into consideration. That is why I think that this is one of the reasons it is a good step. I have concerns, some of them have been raised already, but the question I ask initially is that this is very bizarre to have this opposition because usually it is Senator Bailhache who stands up and presents these kind of propositions. That is what has happened, as far as I can remember, in all the recent ones, when there is a Tax Information Exchange Agreement it is Senator Bailhache as the Minister for External Relations who stands up and makes these proposals. It is not the Chief Minister usually but that is what is happening on this occasion. It is not simply the fact that there are 2 senior Ministers who are disagreeing with each other - as the Deputy of St. Martin has alluded to that is unusual and problematic - it is the fact that it is the Minister for whose area this responsibility directly comes under who is disagreeing with the basic policy of his own department. The Minister does not even agree with his own department's policy and that is the fundamental conflict. My question is, and I cannot really ask the Chief Minister because he has spoken, but I would like to ask the rapporteur when he sums-up or the Minister for Treasury and Resources, whoever, was the resignation ever offered when the discussions took place around the table? Did the Minister offer to resign and, if so, why was that not accepted? That is just for a point of information. The risk here, on top of everything that has been said already, is that there is an isolationist policy that we are seeing from the Minister for External Relations that I do not think is in keeping with the spirit of the times everywhere else and it is also not practical for small jurisdictions, even jurisdictions the size of Scotland I believe, not necessarily viable for them to go it alone and the reality is that more and more co-operation between smaller jurisdictions and larger jurisdictions is inevitable, if not desirable. Even if there are those who are reluctant about that it is a necessary evil I would say to them, but I welcome it. I think it is a positive step forward. I also think it is positive that Jersey can lead by example. That we can be, I know the term "first followers" has been used in the past. Simply the argument that if we had to wait for everybody else to sign-up before we got on board then who would be the first ones to sign-up? I do not think it is ever going to happen. If we do want to see any kind of tax harmonies or at least a universal fight against evasion and aggressive avoidance then we need to be taking the step. Somebody needs to be the first one to be signing-up and sending a message out to other jurisdictions but also showing that we are willing to be as transparent as possible. Therefore, in the long term, the sustainable business will be coming our way, so fully sign-up to that and it is good to be able to endorse the views of the Chief Minister. I think those are really all the comments I need to make. But, lastly, for those Members who are tempted to vote for this because they have been persuaded by the argument that the Assembly needs to show its autonomy and authority and it can disagree with the Council of Ministers, absolutely and I welcome the Senator standing-up on future occasions telling us when we should be throwing out Government policy because it is the first time I have ever heard of it. There have

been numerous occasions in this Assembly where many of us know in our hearts of hearts that the autonomy and authority of the Assembly has been undermined and it will continue to be so. Certainly, that is an issue that we must face up to at some point but it is not the main issue on the table today. I think on the balance of probability we definitely need to come down in favour of the overall proposition but certainly not the amendment. I wish the Minister for External Relations all the best in his new role, whatever that may be.

**11.4.11 The Connétable of St. John:**

I did not expect to be called quite so soon, Sir. I thought we had quite a list of Members wishing to throw brickbats at the proposer. It is not my intention to throw brickbats at the proposer or the Chief Minister but I will remind Members that the Senator and his bringing this proposition is not the first member of the Council of Ministers to do what he believes is right for this Island. We only have to think back some months ago when the Minister for Planning and Environment did it his way and did what he believed was right for this Island. At that time the Chief Minister himself brought a proposition, which he never eventually went along with, to dismiss that particular Minister at the Planning Department. That never went anywhere and I sincerely hope that whatever way this goes today that to lose somebody of Senator Bailhache's calibre off the Council of Ministers would be a backward step, whatever happens. The proposer mentioned an uneven playing field, quite rightly so. When the U.K. brings about legislation for its own people, the same as we are being asked to sign-up to or have signed-up to without the ratification of this House yet, that is the time to do this. The proposer has not said for it not to happen, he is just asking for it to take its time. Let us have a level playing field, everyone else has to sign-up at the same time. It concerns me that at the 11th hour and 59th minute we get the comments from Jersey Finance.

[16:15]

I must ask, given that the figure of £6 million was mentioned by an earlier speaker, Deputy Martin I believe, which is pumped into Jersey Finance every year, was pressure put on the C.E.O. (Chief Executive Officer) of Jersey Finance to produce that letter in the 11th hour and 59th minute? Because that is what it appears to be, given that this came to us so late in the day. Nobody bites off the hand that feeds you and, therefore, if pressure was brought, Chief Minister, I sincerely hope you will be able to, when you are speaking ...

**The Bailiff:**

Through the Chair, Connétable.

**Senator I.J. Gorst:**

Sir, I wonder if the Connétable would give way, he has made some accusations ...

**The Connétable of St. John:**

No, Sir, I will not give way at the moment.

**Senator I.J. Gorst:**

... about somebody who is not able to answer.

**The Connétable of St. John:**

I will not give way at this moment, Chief Minister. I sincerely hope that when the Chief Minister does speak that he will clarify whether or not any words of wisdom had been spoken to the C.E.O. of Jersey Finance. Somebody mentioned earlier about the way we all move forward in the last 2 years. Well, the world has changed. I wonder where we will be in the next 2 months, whether or not...

**Senator L.J. Farnham:**

Can I raise a point of order? It might be, Sir. I mean, may I speak?

**The Connétable of St. John:**

No, because I am not giving way.

**Senator L.J. Farnham:**

I wonder if the Constable of St. John runs the Assembly sometimes. I was asking a question. Well, the Constable, much as I respect him, does tend to get away with the most inappropriate allegations.

**The Connétable of St. John:**

Can I continue? I hope I do not get interrupted again, particularly when I am told to sit down by another Member. Getting back to where I was, I do not know where we will be in the next 2 months, let alone the last 2 years. We see the U.S.A. now wanting to get in bed with Iran. We see various things happening in the Middle East. It is all well and good to say: "Sign these documents today" but what weight might they carry or might they not carry in the next 2 months or 2 years? Jersey, I could see us having to paddle our own canoe yet again in the future depending on what happens in other parts of the world. That is of real concern to me. I am supporting - in fact I seconded the proposition because I did not see anybody else ready to jump up - and I am supporting that we move a little bit slower, because that is all this proposition is being asked to do; move a little bit slower. Do not jump in immediately, wait a year, 18 months, 2 years, until all the necessary work has been done. That is all that is being asked for. A little bit of common sense. That is what I would call it. Being prudent.

**The Connétable of St. Mary:**

Sir, may I raise a point of order?

**The Bailiff:**

I think Senator Bailhache wants to speak.

**Senator P.M. Bailhache:**

I am grateful for the support from the Constable of St. John, but I think I have heard enough to appreciate that the Assembly is not with me. I shall in just a moment make an application to you, if I may. But before I do that, can I respond to Deputy Le Hérissier? May I just respond to Deputy Le Hérissier on I think this is a point of order, because I should like to make it clear to the Deputy and to Members that long ago when this difference of opinion with the Chief Minister first arose, I offered my resignation as Minister for External Relations. The Chief Minister has not accepted it, but the offer was made. Having said that, I would seek the leave of the Assembly to withdraw the amendment to this Article. **[Approbation]**

**The Bailiff:**

Does the Assembly agree to the Senator being given leave to withdraw? All those in favour please stand. The appel is called for then in relation to the request of Senator Bailhache that he be given leave to withdraw the amendment. Therefore if you wish to give him leave you vote pour; if you do not you vote contre. I invite Members to return to their seats and the Greffier will open the voting. They have now, but I am rather of the view if those Members are not in the Chamber when votes are called **[Approbation]** they need not be given too long to get back. Very well. The Greffier will now close the voting.

<b>POUR: 39</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Connétable of St. John		
Senator P.F.C. Ozouf		Deputy M.R. Higgins (H)		
Senator A. Breckon		Deputy N.B. Le Cornu (H)		

Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
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 E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

**The Bailiff:**

Very well. So now we return to the debate. I am so sorry. The Connétable of St. Mary, you said you had a point of order to raise. Do you still wish to raise it?

**The Connétable of St. Mary:**

Yes, Sir. Just an observation. It is a point of order though, that Members do seem to be taking our Standing Orders on the rules of debate very casually lately. Our understanding was always that if you say the proposer or the Chair was addressing anybody, every other Member should be seated. **[Approbation]** If there is a point of order raised, the Member speaking should sit.

**The Bailiff:**

Thank you very much, Connétable. That is absolutely right. That is what Standing Order say and so thank you very much. Do you wish to raise a point?

**Senator P.F.C. Ozouf:**

No, I wish to speak on the debate.

**The Bailiff:**

Sorry. That is right. Connétable.

**The Connétable of St. John:**

On that point of order I had not given way.

**The Bailiff:**

No. If I may, Connétable, the point being raised by Senator Farnham was a point of order, as he said, and if it is a point of order then you should sit down until the Chair has ruled on the principle. Very well. Now we come back to the debate on this Regulation.

## **11.5 Draft Taxation (Implementation) (International Tax Compliance) (United Kingdom) (Jersey) Regulations 201- (P.67/2014) - resumption**

### **11.5.1 Senator P.F.C. Ozouf:**

I apologise to Members if I am not with complete voice, but I wish to rise in absolute support with the unamended Article that is before the Assembly in, I hope, an enthusiastic and unanimous, including I hope Senator Bailhache's agreement of this Article. Jersey will be sending a very clear message of what we stand for in terms of compliance and in terms of our position on tax evasion. Approving this Article, unamended, as we have now decided to do so, is about our reputation. It is about our overall economic interest. It is about effective diplomacy. Diplomacy is the skill, I am told, of dealing with people effectively, in a positive way. Diplomacy is the art of the practice of conducting international relations, negotiating alliances and finding solutions. In the amendment debate a number of important points were raised, which I am now grateful that almost we do not have to tackle, because some of them would be uncomfortable; and some of them in agreeing for the now unamended proposition would be uncomfortable in not complying with our international obligations and our international reputation and in the overall economic interest. It is right that this amendment will mean that there are going to be some limited losses for our financial services industry. But in asking Members to support the Article, I would ask them to consider the overall economic interest of Jersey. There may well be some losses that are associated with a 2-year window of handing information to the U.K. which the U.K. tax authority does not ask of their members, of those taxpayers themselves. But Members should not be overly concerned about that because of the overall impact of Jersey of benefiting from sending out the very clear message that the I.G.A. that was signed in December, after being originally discussed at the G8 and all of the months subsequent to that is that our economy in overall terms is going to benefit from a clear statement of not an isolationist policy, of not being a laggard, of not being unco-operative in the international fight of tax evasion. Some Members may be concerned that in adopting this Article and there was in some of the debates that we have had, there is something that I now dub J.M.T. which is Jersey Mean Time. In the time when Greenwich Mean Time was created, the world was regarded as being central to be around London and the greater world of the United Kingdom and its imperial powers. That may be the case. What is certainly not the case is J.M.T. which is some view of the world that runs through the Royal Square.

**The Bailiff:**

Senator, could I just remind you the amendment has been withdrawn.

**Senator P.F.C. Ozouf:**

I know, but I just wish to say that in adopting the Article unamended, Members should not worry about the consequences of doing so, and having been prevented from talking about that I just want

to make sure that Members have no doubt that in overall terms, and I am not going to speak very long, adopting the Article unamended is absolutely the right thing to do. It is the right thing to do in understanding what our place in the world is. Our place in the world is a co-operative jurisdiction, in understanding that there are tax arrangements that are now being put in place with the international community which we should enthusiastically and positively engage in, both in terms of agreeing them and in terms of shaping them. There has been a difficult path to bringing this proposal to the Assembly and I believe that the reputation that Jersey will have, that the reputation that we will continue to enjoy with the U.K. Government, that we will continue to enjoy favourable discussions, positive discussions about our economic future with the U.K. Prime Minister, the Chancellor, *et cetera*, that will be in our overall interest. As the Chief Minister said in his opening remarks to these Articles, this is an important message that must be sent out positively, proactively and in an engaging way and in a solution in a proactive way to deal with an international challenge. The train has left the station on I.G.A.s, on international factors. They are coming and anybody who does not agree with them will be regarded as non-co-operative. We should agree this Article because while perhaps not entirely perfect, and I would say that an identical article is now shortly to be discussed, if I track Twitter, being debated unamended in the Manx Parliament and is before the Guernsey Assembly next week. We are not alone; we are together. We are together for the right reasons and the right reasons, in Jersey's economic interest and I urge Members to vote in favour of the Article.

**The Bailiff:**

Does any other Member wish to speak on Regulation 7? Then I invite the Chief Minister to reply.

**11.5.2 Senator I.J. Gorst:**

I thank those who have spoken. I am particularly grateful for Senator Ozouf's support today. I am very grateful to the Assembly and I am pleased that we did not have to go to a vote on the amendment. I believe that I am grateful for the Assembly's understanding of the importance of these issues which, as I said earlier, are often not seen and often not considered but are vital to our strong economic future. I believe, as I have said, that giving effect by Regulation to the agreement that we earlier ratified is the right thing to do. It will help us to build a positive position into the future. Of course, some institutions are already telling us that they may not even avail themselves of this alternative reporting provision as shown in Regulation 7. But let us have one reporting process which deals with all the required reporting. I am very, very grateful to all that Members have said and I hope we will now accept this Regulation unamended.

**The Bailiff:**

All those in favour of adopting Regulation 7, kindly show. Those against. The Regulation is adopted. The appel is called for then in relation to Regulation 7.

[16:30]

Too late, is it? The Greffier has reminded me it is probably too late given I had announced it had been adopted. Very well. Then we come to Regulations 8 to 10. Do you wish to propose them together?

**11.6 Senator I.J. Gorst:**

If I may. Regulations 8, 9 and 10 again mirror the U.S. F.A.C.T.A.: 8 makes provision for penalties; 9 deals with offences and 10 sets out the title of the Regulations and provides that they will come into force on the day after they are made.

**The Bailiff:**



Are those Regulations seconded? **[Seconded]** Does any Member wish to speak on any of those Regulations? All those in favour of adopting Regulations 8 to 10, kindly show. Those against. They are adopted. Do you propose the Regulations in Third Reading, Chief Minister?

**11.7 Senator I.J. Gorst:**

I do, Sir. As I said earlier, these 2 agreements are extremely important for our future. I am very grateful for the support that Members have shown so far and I ask that they continue to show that support. It is important that Ministers are able to have the support of the Assembly. It is important for Jersey as an international finance centre into the future. As Senator Ozouf said, the train has already left the station. None of us realised how fast it was going to be travelling, but it is and we can prove and show ourselves by the acceptance of these agreements and the other standards that we have signed-up to, that we are all that we say we are, and that the work that we do in our financial services industry is something that for, I hope, going forward that Members of this Assembly and members of this community can be proud of. Because we are at the forefront of making sure that we fight tax evasion. We are at the forefront of enabling global cash flows to move around the world in a way that Regulation enhances and enables people to have confidence in that investment and those cash flows. Therefore I believe that we can have, as I said, a strong and positive future. I hope that Members will overwhelmingly support these Regulations in Third Reading.

**The Bailiff:**

Seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? Deputy Duhamel, do you wish to speak?

**Deputy R.C. Duhamel:**

No, Sir.

**The Bailiff:**

Does any Member wish to speak in Third Reading? The Connétable of St. John.

**11.7.1 The Connétable of St. John:**

I know an awful lot of work has been done in this, but all I will say, I am only sorry that we were not allowed to go to the vote on the amendment and this in fact leaves the way from hereon I think to see the Council of Ministers doing things that this Chamber will not approve of in the future, but they had the opportunity today to do something about it.

**11.7.2 Senator P.F.C. Ozouf:**

If I may say just a couple of things. It was a year ago on Sunday that I was privileged to attend with the Chief Minister to the Downing Street Summit and it is worth saying, because it is not often that one has the opportunity of saying of which the genesis, the reason why we are here today is at the heart of it. I have to say, Members will understand and I hope respect the reason why I wish to say this. I saw the Chief Minister in action in Downing Street and I saw the way that he engaged with overseas territories, with the Prime Minister and others. I saw the consequences of that activity and I want to say to the Chief Minister: “Well done” for the work that he has done in bringing Jersey’s reputation to where it is. **[Approbation]** In it he and I dubbed the words: “We are not a tax haven. We are not the problem. We are part of a solution” and we rolled that out across the United Kingdom television networks and elsewhere. That has stuck and we are increasingly regarded as the solution and as being part of the solution in a co-operative and positive way. I commend his effective, tough and positive engagement strategy and I am delighted that we are at the stage of finally agreeing these important, ground-breaking and vitally important to our reputation, Regulations. Thank you, Chief Minister.

### **11.7.3 Deputy S. Power:**

Now and again, and very rarely, a report and proposition come before the Assembly that many of us have 2 different functions within the Assembly are not aware of the detectable tensions that have obviously been at Council of Ministers as a result of P.67. When the amendment to P.67 came out on 3rd June, I read it as part of Senator Bailhache's vision for Jersey in some ways. He was reflecting his own passion for independence and a more autonomous role for his own Island that is now a place that I have lived for 30 years. But when the debate started and I saw ...

#### **The Bailiff:**

Deputy, this is a debate on the Bill in Third Reading.

#### **Deputy S. Power:**

I know, Sir. I just wanted to observe that I was caught by surprise with the evident tension that this caused this afternoon. I am glad it has been resolved because more than anything else I recognise the passions that have existed as a result of this.

### **11.7.4 Deputy M.R. Higgins:**

I will be very brief. I would like to thank Senator Bailhache for bringing this proposition. The reason why it is important that Members should realise the real politics that go on. We talk about our constitutional position and how the U.K. recognises this and so on, and we talk about negotiations. What people do not realise is that the Island is a minnow in a sea of sharks. The truth of the matter is that the U.K. Government will use whatever means it wants to get its own ends. We should remember that: this is real politics. We should not listen to all the waffle about our constitutional position, this, that and the other, and we are going to defend it. If they want something they will use whatever means possible to achieve it. I think it is important that people of the Island are aware of that. I may not necessarily agree with his actual detail of this proposition but at the same time it is important the public know and members recognise what true politics is about.

### **11.7.5 Senator L.J. Farnham:**

If I may briefly say and being pleased to support the proposition, I just wanted to make the point again, and following on from Deputy Higgins, that I have been extremely disappointed with the rhetoric that some Members have spouted against Senator Bailhache and demanding ... these are opponents of collective responsibility and have been calling for his resignation. I think it is inappropriate. We should treasure the independence this Assembly has, the independence that its Members have. I, too, would like to congratulate Senator Bailhache for having the tenacity if I may say so, to bring this proposition because it has caused a debate on something and it has made us, I think, many of us, realise the importance of this proposition. I think a lot more of us know now why we are supporting it.

### **11.7.6 Deputy J.H. Young:**

Briefly, in passing this through Third Reading I just want to say that I think that it has been important that we have had a choice during a debate, albeit that I congratulate Minister for External Relations for withdrawing in the end wisely. Because to be faced with a choice between undermining our Government's credibility that having gone to an important negotiation and signing documents and then being asked to trade-off the valuable independence of having the importance of States Assembly, I think that was a horrible decision. I am really pleased we do not have to make it. I would just ask in future if these situations occur again, can we please make sure that it is not right at the end of the chain after agreements have been signed and it is somewhere earlier in the process. Not late in the day, please.

### **11.7.7 Deputy M. Tadier:**

What is the order? Is it in order to readdress another Member's comments if those comments were not relevant to the debate?

**The Bailiff:**

I am not sure that anything said so far bears any relevance. **[Laughter]**

**Deputy M. Tadier:**

I will not break with tradition, but very briefly before I get on to the main point, it is simply not logical to argue that somebody cannot say that because somebody believes in collective responsibility and someone else does not. If the person who believes in collective responsibility then breaks collective responsibility, it is absolutely in order to point out the logical inconsequence of that position, if that is ... Anyway, that is enough of that part. But moreover, it is the fact that the individual does not believe in his own department and the direction they are taking. That is where the inconsistency is. I think that is really it, but I think it is important to acknowledge the hard work that has gone on here clearly. The States Assembly still has its autonomy because it is a States Assembly which will vote now in the Third Reading and if the States Assembly really does not like the direction being taken by the Chief Minister, this is the point at which to vote against it. So by all means use that autonomy and use it on all occasions in all votes in the future.

### **11.7.8 The Connétable of St. Lawrence:**

I was hoping to speak earlier on the amendment, although I did vote to allow the Senator to withdraw it. I would like to respond to the comments that Senator Ozouf just made about the hard work that has gone into this on our behalf by the Chief Minister, because I felt very proud to hear the Senator make those comments because I support our Chief Minister and I am extremely pleased that I voted for him to be in that position. That vote was against Senator Bailhache who also stood in that position. But I think the Senator has performed a very valuable function by bringing the amendment to this proposition, because we are now debating the Third Reading. Had we agreed with the amendment that was brought by Senator Bailhache, we may have changed what we are deciding upon now. The fundamental matter is that we as a Legislature have the power to make those changes. So notwithstanding that the I.G.A. had been signed on behalf of the Island, we are not here to simply rubberstamp. I believe that Senator Bailhache made that point when he was proposing his amendment. We are not here simply to rubberstamp those agreements and although we did not agree with the amendment today we may well have done and we may well want to bring amendments ourselves in the future. The point is we are able to do that, because as the Legislature we have the final say. I think it is extremely important that we remember that. We are not here merely to rubberstamp actions that have been made on our behalf by the Government, notwithstanding that Senator Gorst has clearly done an excellent job in reaching this stage.

**The Bailiff:**

Does any other Member wish to speak in Third Reading? Then I invite the Chief Minister to reply.

### **11.7.9 Senator I.J. Gorst:**

I am not quite sure how to reply. Could I just respond to - and it is remiss of me that I did not respond to the Connétable of St. John and his comments with regard to Jersey Finance which I felt were inappropriate. Of course the actual amendment was only lodged 2 weeks ago and Jersey Finance Limited had to consult with relevant industry bodies before they were in a position to provide the letter to myself and thereby to Members. There was no inducement whatsoever. The Member obviously does not know the Chief Executive and the many members of the relevant industry bodies in Jersey Finance, because if he did he would know that there was no way

whatsoever that one could coerce them into a unified position, or into writing such a letter. So I absolutely reject the accusation in that regard, and I think it is right that I make that clear. When Senator Bailhache lodged his amendment to Regulation 7, I jokingly said to him there was only one thing in his report that I accepted and his point was accepted, and that was the very point that the Connétable of St. Lawrence has just raised again in Third Reading.

[16:45]

He is absolutely right that when Government or Members of the Executive conclude international agreements it is a fundamental right of Legislatures to approve or not or amend or approve, and it is an important safety against the power of the Executive. I think that was very clearly put forward in the report of the mover of the amendment. I just did not agree that we should do it in this particular instance. For all the reasons that I have said, the world has changed, we have set out our position, I believe we are respected and our position is acknowledged now in a way that it has not been in the past, and we should carefully make sure that we continue to move in the right direction so that we do have a sustainable financial services sector into the future and I believe that agreements like this ensure that we will have just that and that we have a future that we can look forward to and not be concerned about. Senator Ozouf was extremely kind and, as I said earlier, often a lot of my work is done behind closed doors and people do not see it. That is the nature of Ministerial work. But on that particular day in London I was pleased to have Senator Ozouf accompanying me. I will not comment on security arrangements about how that was possible but his advice in this regard, and certainly in regard to the signing of both the I.G.A.s, have been invaluable and I am very grateful to him for that advice. I should also, as the Deputy of St. Ouen said earlier in the debate, thank my international adviser who, once again, has been instrumental in advising Ministers to get to what I believe is the best possible position that we could be in and therefore I do once more ask that Members overwhelming support this, and if possible I even call upon the Connétable of St. John, to reconsider his position. When he casts his vote now I ask him to think about the best interests, as he has done in other debates, of his children and grandchildren, if he wants them to have a strong economic future in our community he needs to support this. Our future is about being open and transparent and meeting relevant international standards not in the past. So I ask that Members might unanimously support this.

**The Bailiff:**

The appel is called for in relation to Third Reading. I invite Member to return to their seats and the Greffier will open the voting. If all Members have had an opportunity of voting, the Greffier will close the voting.

<b>POUR: 46</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Connétable of St. John		
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				

Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (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 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.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

**The Bailiff:**

Very well, so that includes the debate on that projet.

**12. Draft Income Support (Special Payments) (Long-Term Care) (Jersey) Regulations 201-(P.70/2014)**

**The Bailiff:**

We come next to Projet 70 - Draft Income Support (Special Payments) (Long-Term Care) (Jersey) Regulations - lodged by the Minister for Social Security. I will ask the Greffier to read the citation.

**The Greffier of the States:**

The Draft Income Support (Special Payments) (Long-Term Care) (Jersey) Regulations. The States, in pursuance of Articles 8 and 18 of the Income Support (Jersey) Law 2007, have made the following Regulations.

**12.1 Senator F. Du H. Le Gresley (The Minister for Social Security):**

This proposition and P.71 which follows later forms part of the finishing touches to the Long-Term Care Scheme which will be operational from 1st July. Before I explain this proposition in detail, I

would like to give Members a short update on progress towards the 1st July deadline. Officers from my department have been working very closely with their colleagues at Health and Social Services over the last few months. New teams have been set up, new processes and software designed, tested and installed. There are over 1,100 people in Jersey currently receiving long-term care. About 60 per cent of this group already receive some kind of financial support from Health and Social Services or Social Security or both. The majority of these people will be transferred to the new scheme. Their care needs and financial situation have already been checked and they will continue to receive support until the new scheme comes into force. There are also a significant number of people who currently fund their care completely independently of States Departments. We have worked closely with the local care homes and care providers to identify as many of this group as possible and offer them the opportunity to pre-register for the new scheme. Many people in this group have now done this and have already received a care assessment. I would like to take this opportunity to thank all care homes and providers who have worked very hard behind the scenes to facilitate this process and minimise the impact on their clients. With an allocation to one of the 4 long-term care levels, these individuals are able to account for any time spent paying for care at this level since January 2013 towards their care costs cap. The cap has now been set at £52,120 from July 2014. Once standard care costs reach the cap the individual will qualify for the new universal long-term care benefit to cover their standard care costs for the remainder of their time in care. Assessments of existing self-funders will continue over the next few months as the new scheme is formally launched. We will be publishing detailed information on the new scheme through the gov.je website and distributing leaflets and information to community groups, Parishes, G.P surgeries and other professional organisations. These existing self-funders will be able to request that any standard care costs paid since January 2013 is included in their care cost account. I do need to emphasise that this backdating only applies to the standard care cost account, which builds-up towards the care cost cap of the claimant. Benefits will only be paid or start to be paid from the Long-Term Care Fund from 1st July this year in respect of care received from July onwards. So from 1st July anyone who starts to receive long-term care and is covered by the Long-Term Care Law will be offered the opportunity to make a claim as part of the assessment of their care needs. The Health and Social Services Department has set up a new streamlined process to deal with all initial inquiries. Careful co-ordination between the 2 departments has concentrated on creating a lean process, guiding the individual through both the care assessment and any financial assessment that is needed. For the first time there will be a single set of rules that will apply to everyone who needs long-term care, covering the way in which care needs are assessed and the way in which the cost of care is supported. Unlike the current system, the same rules will apply to people who need nursing care and those that need residential care. The same rules will apply to people who receive care in their own home and those that receive care in a care home. The same rules will apply to all adults aged above and below 65. Individuals and family members looking for information about care choices will be able to refer to a single list of care homes and care providers which will be maintained on the new Jersey online directory. Private care homes are already subject to an inspection regime and Health and Social Services has recently compiled a list of approved care providers, which deliver care services in people's own home. Being able to compare details of these approved providers will give people the opportunity to understand the full range of care services available in Jersey and the cost of different types of care provisions. Following the States debate in December last year, funding for the Long-Term Care Fund in 2014 is made up of transfers from existing departmental budgets. As explained at that time, this is an interim step and long-term care contributions will start to be collected from 1st January next year. The rate for 2015 will be a half per cent rising to 1 per cent at the beginning of 2016. My officers continue to work closely with the taxes office to prepare for the introduction of this new charge, which will be collected alongside existing income tax liability through both the I.T.I.S. (Income Tax Instalment System) system and direct billing. A publicity campaign will run at the end of the summer

explaining the new contribution and how it will be collected. Inevitably with such a major change there will be many queries and possibly a few hiccups along the way, so I would urge Members with any questions or comments on behalf of their constituents to get in touch with the long-term care team at Social Security so that they can resolve any issues and ensure that the new scheme is introduced as smoothly as possible. Turning now to the specific Regulations. At the end of last year the States approved P.99 which set out a detailed plan for the implementation of the Long-Term Care Scheme. This included proposals to support people who do not qualify for the Long-Term Care Scheme, although they do have long-term care needs. In almost all cases this will be due to a lack of residency in the Island. The Long-Term Care Scheme requires someone to have spent at least 10 years in the Island as an adult and also to have been in Jersey for the 12 months leading up to the application for long-term care benefit. The Long-Term Care Scheme will provide a range of generous benefits and it is appropriate that there is a rigorous residency condition to receive benefits from the fund. However, under the current system financial support is available to adults who have lived in Jersey for at least 5 years under both the income support scheme and the rules applied by Health and Social Services. These new Regulations allow people who fall into this category to have their care needs assessed under the same rules as the main Long-Term Care Scheme but provides for a fully means-tested benefit with a much reduced asset disregard. Individuals who will be covered by these Regulations will include people who have moved to Jersey in later life and have been living here between 5 and 10 years when they first started to need long-term care. Someone in this situation would be able to receive means-tested support for up to 5 years until they meet the 10-year residency requirement for long-term care. Alternatively the individual may have lived in Jersey for many years and retired or moved away some time before, they have then returned to Jersey but start to have long-term care needs within that first year back in the Island. In this case the person would be covered by the income support means-tested system for the first year that they receive care, after which time they will be eligible for the Long-Term Care Scheme. In both cases the time spent on the income support scheme will not count towards the care costs cap under the Long-Term Care Scheme. Care costs will only start to accumulate towards the care costs cap once the individual is fully eligible under the Long-Term Care Law. The full residency test under income support includes a number of variations. The main tests are: 5 years' continuous residency in Jersey immediately before the start of the claim; at least 5 years continuous residency in Jersey followed by a gap outside the Island but a further period of continuous residency in Jersey that is longer than the time spent away; and finally 10 years' continuous residency in Jersey at any time as an adult or child. The second main difference under the income support scheme relates to the treatment of the assets of the claimant and their partner. Under the Long-Term Care Scheme assets up to £419,000 are exempt from the means-testing calculation and individuals can receive means-tested support for their standard care costs if they have total assets up to this limit. By contrast the Income Support Regulations use the capital limits set out under the main Income Support Law. A single claimant has an asset disregard of £13,706 and a claimant with a partner has an asset disregard of £22,719. Any assets, excluding the value of the family home above this level must be used up before any financial support is provided. In the event that a homeowner applies under the scheme, they will be entitled to request a property loan but there will be no guarantee as to the maximum amount of that loan and there will be no opportunity to use the loan to assist with additional costs over and above the standard rates. The individual will only be offered support with a standard placement at the published benefit rate. Finally, there is no care cost cap under the Income Support Regulations but claimants will continue to contribute towards their full care costs regardless of how long they remain in care or the value of these costs.

[17:00]

As I have already mentioned, if an individual becomes entitled to claim under the long-term care benefit, having completed a further period of residency in Jersey, the time spent receiving care under the Income Support Regulations does not count towards the care costs cap under the Long-Term Care Law and the claimant will need to start paying towards the full £52,120 worth of standard care costs once they have fully met all the eligibility conditions for the Long-Term Care Law. The Income Support Regulations draw extensively upon the Long-Term Care Benefits Order. I made the first version of this Order last month and the appendix included in my written report provides a detailed summary of the content of that Order. The first version of the Order included numerical values as quoted in the 2013 P.99 proposition. However the Order will be renewed before the end of June to reflect the benefit rates and other parameters that will be used when the scheme becomes operational in July. I will briefly outline the values that will be established from July. In general terms the benefit rates and the care cost cap will be increased by 4.24 per cent from the 2013 income support benefit rates and the values quoted in P.99. This increase is based on the increase of 2.2 per cent which has already been applied to income support residential care rates from 1st January 2014 and a further 2 per cent to be applied from July of 2014. The 4-weekly care rates will be set as follows: Level 1, £353.15; Level 2, £539.07; Level 3, £779.24; and Level 4, £979.86. The standard co-payment payable by anyone living in a care home will be £312.76. These rates will be maintained for 18 months until the end of December 2015 and will then be subject to review for January 2016. This has led to an increase in the care costs cap from £50,000 up to £52,120 for a single claimant and for the maximum payable by a couple to increase from £75,000 up to £78,180. Increasing the care cost cap in line with the increase in the benefit rates ensures that the number of weeks to reach the care cost cap remain constant at each care level. The setting of the asset disregard in 2013 at £419,000 was based on the local house price index and the 3 year average for the price of a 2-bedroomed house. The 2013 house price index was published in February of this year and showed a decline in the price of 2-bedroomed houses. Applying the formula described in P.99 would have led to a reduction in the property element of the asset disregard by £11,000 from £394,000 to £383,000. However, taking into account the other parameters within this scheme, I will be maintaining the property element of the asset disregard at £394,000 and the total disregard at £4219,000 until the end of December 2015. Finally, within these Regulations provision has also been made for the transfer of existing loans into the new Long-Term Care Scheme to take advantage of the ability to register property charges under the new Social Security Hypothecs Law. This applies to a small group of claimants who own their own homes and are currently receiving support for their care fees through a loan under the current income support system. This is quite separate from the arrangements I have just described, which will be dealing with new applications after 1st July. So to sum up, the aim of these Income Support Regulations is to create a new set of rules in line with the Long-Term Care Law, but applicable to claimants who do not meet all of the requirements under the Long-Term Care Law. Whereas the care elements of these Regulations are identical to the long-term care ones, the financial elements create a fully means-tested system with the individual meeting as much of their gross care costs as they can afford throughout the duration of their time in care. This creates a consistent treatment of all support provided for long-term care costs but the more generous financial rules within the long-term scheme are only available to those who meet the full residency requirements agreed by the States for the Long-Term Care Fund. I make the proposition.

#### **The Bailiff:**

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

#### **12.1.1 Deputy J.H. Young:**



I think it would be remiss if the Assembly did not congratulate the Minister for Social Security and his team [**Approbation**] on this incredible amount of work. This is a horrendously complicated scheme and it is difficult for all of us to get the full details into our head and I am sure he is right that there will be a need to communicate over the next 6 months or so, certainly coming up to when contributions start to be collected, these details. I think, from what I can see, he has given consideration to achieving a scheme that does achieve what it says on the tin. It is a very progressive scheme and if I understand correctly - I hope I have got this particular component today - what I think the Minister is asking us to improve is the arrangements for those people that do not meet the full entitlement to the L.T.C. (Long-Term Care) scheme, the Regulations of which we have previously approved. I see the Minister is nodding so I have got that bit right. I think he has explained effectively already the effective working, the difference between the asset disregard in the 2 schemes and how that is going to work. I have got a series of points on the Articles, which when we get to I will pick up. But there is one point that I will ask him to perhaps generally deal with. The scheme seems to clearly set out the question of spouses and partners in terms of how their assessment to means-testing is carried out. I wonder if he can also deal with the issue of live-in carers, because in many situations you have a situation where people live in extended families who provide support to each other in the home and I could not see in the paperwork that the treatment of family members or live-in carers - it may not even be family members - companions, what have you, how they would be treated for such assessments under that. But the Minister must be congratulated on this and I will 100 per cent support it.

#### **12.1.2 Deputy G.C.L. Baudains:**

I just make an observation and I mean this in the nicest possible way, but when the Minister looked up from his notes when he was speaking, he started off there were about 3 or 4 Members paying attention, about 20 minutes later that had dwindled to as far as I could see one. I hope when he brings the next proposition that he is much briefer than he has been because long lists of numbers and technical things just take up a lot of time. The information is already in the proposition if Members had read it.

#### **12.1.3 The Deputy of St. Martin:**

Could I start off by disagreeing with Deputy Baudains. I was certainly paying full attention, I know Deputy Young was and I looked around the Assembly, I do not know where Deputy Baudains gets his figures from, as ever.

#### **Deputy G.C.L. Baudains:**

The Deputy of St. Martin was the one who was paying attention at the end.

#### **The Deputy of St. Martin:**

I am not in the habit of repeating what other people say but I make no apology for echoing Deputy Young and thanking the Minister and his team for his ongoing efforts in this most important and significant social security reform, the long-term care in the future years is going to really pay benefits for us in this Assembly. I just have 2 questions for the Minister. The first one is regarding disregards. He mentioned that even though the average house price has fallen, that he has decided to maintain the disregard at the same level. Can I ask him whether he will be waiting for those house prices to return to the levels that they were at before he changes and raises the disregard? The other question I have is on page 3 of his report there is a reference to support being available to people who have high care level needs, and despite trawling through his Regulations 2 or 3 times to try and find it, I cannot find a definition for what exactly high care level needs are and I would be grateful if he could describe that for me.

#### **12.1.4 Senator A. Breckon:**

Just to add congratulations to the Minister. This has been a long time coming. Guernsey have had a scheme since 2002 or 2004 and I know from dealing with cases this was particularly distressing to many elderly people whose homes were charged against care. Particularly where there was a surviving partner, they were worried: "Well, what happens to me?" In some of the written answers... I remember attending a Parish Assembly in St. Saviour years ago and I must say that those giving the estimates were fairly accurate but there was a big unknown in there and that is when the Parishes funded elderly care. It was a significant amount which had not been estimated or allowed for. I noticed in the written answers today the Chairman of the Comité des Connétables has said that, this was the year ending 30 April 2006, there was £5,492,516 was spent on residential care by the Parishes. That, to some extent, was the alarm call - it is a political cliché - that something must be done. But the fact is when this was falling on the Parishes it was not sustainable. As we know, that led to changes for welfare and income support but this was a significant part of that and we can see what the cost is. There is a cost but then somebody has to pay. Even some of the people I found in these circumstances said: "We do not mind paying the equivalent of an insurance premium. Nobody wants to collect, we want to stay in our own homes and be fit and well as long as possible." But then when people found themselves in what were sometimes distressing circumstances, there were then the financial penalties, as it were, to beat them up with. I looked at things and there was homes then charging in excessive of £1,000 a week. Even on a family home that soon whittles away when there is no limits. I think although Senator Le Gresley has spent more time than was originally envisaged doing this, what is in place and also the people working on it have put a structure that is affordable and sustainable. It will take away the worry from some of those people who had that. My experience, as I said, says that people are willing to pay a little and if we all pay a little bit it is like insuring your house. Nobody wants to claim on the policy but you cannot get insurance if it has been flooded or it catches fire. So I think it is the right way forward and I think it is also a beacon for other places - and I know the U.K. have struggled with this in particular - that others may look at and see it as a role model for them to adopt. So I think it is all positive and, as I say, there is a cost people will have to pay but in the end it will be welcomed. Finally, I remember I think it was Deputy Mézec asked a question today about States Members going into schools. I was invited into Victoria College and I talked to the youngsters there, 15 and 16 year-olds and they were talking about elderly care and the situation and they said: "Yes, we should have a scheme and we should pay because this happened to my gran and my granddad and it is not fair." So even younger people, I think, will appreciate it. It is not just about elderly, it is about care and sometimes there have been tragic accidents where people have needed their care as well and this will address part of that. But the other thing Health must not do is look at it as a way to prop them up to get some of their money back for some of the things they should be doing through the health services. Where people have health problems that is a slightly different thing and we must be careful because there is a grey area and this must not be used to prop that up. But I hope Members will support this wholeheartedly because it is badly needed. It has been a long time coming but I think in future years the population, although there will be a cost, will thank the Assembly and the Minister in particular for bringing this to fruition.

**The Bailiff:**

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

**12.1.5 Senator F. Du H. Le Gresley:**

There are a few specific questions. I would like to thank everybody who spoke but in particular those who congratulated the team at Social Security because this has been a massive task working with colleagues at Health and Social Services and also the Taxes Office.

[17:15]

On their behalf I thank Members for those kind words. The question that Deputy Young asked was about the position of live-in carers. Of course there is no question that their income is taken into any consideration in calculating entitlement to benefit. But there is protection for live-in carers who have been living in a household for some considerable time that should the person they have been caring for pass away and there is a hypothec on the house, the hypothec would not be enforced until that carer chose of their own volition to leave the accommodation or passed away themselves. So there is protection for long-time live-in carers. Deputy Baudains took me to task, and he is quite entitled to do that, for giving out a lot of numbers. There was a method in my madness. I have been saying to my officers that we are coming to a stage where it is important to make a public announcement about the values of the care levels and the disregards within the scheme. This could have been done as a personal statement perhaps or a statement to the next Assembly. This was an ideal opportunity to record officially the levels that we will be proposing in the benefits order when I make it later this month. The Deputy of St. Martin was wondering why I have not perhaps changed the disregard for property based on the house price index because it has fallen. The next time this will be reviewed will be in January 2016 when the next house price index comes out for the 3-year period leading up to the end of December 2015. It will be for the Minister at that time to make a decision as to whether the disregard should be reduced or increased according to that figure and, from recollection, that would have to come back to this Assembly because it is one of the few parts of the benefit that needs to be approved by Regulation. As far as the definition of high care level needs, this is a well-known expression within the Income Support Law and it relates to what is to be called the impairment components, and the highest level of that is known as P.C.3, personal care 3. A high care level, the need would be what is known as P.C.3 within the income support system. With that I maintain the proposition and ask for the appel at this stage.

**The Bailiff:**

Very well. The appel is asked for then in relation to the principles of the Regulations set out in Projet 70. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 34</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier		
Senator A. Breckon		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Senator I.J. Gorst		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisssier (S)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		

Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				

**The Bailiff:**

Deputy Hilton, do you wish this matter referred to your Scrutiny Panel?

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

No, thank you.

**The Bailiff:**

Do you wish to propose the Regulation *en bloc*?

**Senator F. du H. Le Gresley:**

Yes, I would have been happy to just take questions but I noted that Deputy Young is seeking some clarification and it may help if I run through the Regulations very quickly?

**The Bailiff:**

The alternative is to wait for him to ask his question.

**Senator F. du H. Le Gresley:**

Maybe I will try that.

**The Bailiff:**

Are Regulations 1 to 5 seconded? **[Seconded]** Yes. Who wishes to speak on any of the Regulations? No one. Very well, all those in favour of adopting Regulations 1 to 5 kindly show? Those against? They are adopted. Do you propose the Regulations in Third Reading, Minister?

**Senator F. du H. Le Gresley:**

Yes.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading please show? Those against? The Regulations are adopted in Third Reading.

**13. Draft Income Support (Amendment No. 11) (Jersey) Regulations 201- (P.71/2014)**

**The Bailiff:**

We come next to the Draft Income Support (Amendment No. 11) (Jersey) Regulations - Projet 71 - also lodged by the Minister for Social Security. I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Income Support (Amendment No. 11) (Jersey) Regulations. The States, in pursuance of Articles 5 and 18 of the Income Support (Jersey) Law 2007, have made the following Regulations.

**The Bailiff:**

Minister, do you propose the principles?

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

Yes, thank you. I promise Members this will be very brief. We need to make some minor amendments to the wording of the Income Support Regulations to bring them in line with the definitions used in the Long-Term Care Law and to remove possible overlaps between the 2 laws. The definition of residential care that was previously used in the Income Support Regulations is replaced with the definition of long-term care in line with the Long-Term Care Law. Within the schedule which sets out the various income support components the references to claimants receiving residential care are replaced as needed with references to long-term care. Various components within the Income Support Law are amended so that it is not possible to claim for the same cost under the Income Support Law and the Long-Term Care Law at the same time. However it will still be possible for people who receive care in their own homes to continue to claim income support to assist with their living costs and accommodation costs at the same time receive a benefit through the long-term care scheme to assist with their care costs. I make the proposition.

**The Bailiff:**

The principle is seconded? **[Seconded]** Does any Member wish to speak on the principles? Deputy Martin, do I gather you want to speak on the principles?

**Deputy J.A. Martin:**

Sorry, I accept that, Sir.

**The Bailiff:**

Any other Member wish to speak on the principles? Very well. All those in favour of adopting the principles kindly show. Those against? The principles are adopted. Deputy Hilton, do you wish this matter referred to your Scrutiny Panel?

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

No thank you.

**The Bailiff:**

Do you wish to propose the Regulations together, Minister?

**Senator F. du. H. Le Gresley:**

Yes, *en bloc* and take questions, thank you, Sir.

**The Bailiff:**

Are Regulations 1 to 4 seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations? All those in favour of adopting the Regulations kindly show. Those against. They are adopted. Do you propose them in Third Reading, Minister?

**Senator F. du. H. Le Gresley:**

Yes.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading please show. Those against? They are adopted in Third Reading. I am in Members' hands.

**The Bailiff:**

We have 2 remaining matters of public business but the next matter, Projet 73, cannot be debated before 19th June so either it has to be put off or a proposition is made to shorten the lodging period.

**Senator F. du H. Le Gresley:**

I am in the hands of Members but I do have a long speech and I know Deputy Baudains does not like my long speeches, so it may be best if we adjourn that to the next sitting and perhaps take the last item of business now.

**Deputy J.M. Maçon:**

Can I interject? Noting how long our next Order Paper is going to be I would be very keen to ask Members to consider to allow the Minister to present his proposition, to waive the lodging period and just clear the business that we have today.

**The Bailiff:**

Minister, faced with that invitation do you wish to make such a proposition?

**Senator F. du H. Le Gresley:**

I am very happy to start my speech but it would probably take us until about 5.50 p.m. If we are coming back in the morning of course I could start in the morning and we could take the other item of business now.

**The Bailiff:**

We first of all need to agree because unless the lodging period is shortened it cannot be debated tomorrow? Do you wish to propose that it be shortened?

**Senator F. du H. Le Gresley:**

Yes, if I may.

**The Bailiff:**

Is that seconded? **[Seconded]** Can I just remind Members of the test that the lodging period may be shortened if the States are of the opinion that it is in the public interest to do so. Very well. If no one wishes to say anything. Deputy Young, do you wish to say something?

**Deputy J.H. Young:**

I want to oppose doing this now and rushing it.

**The Bailiff:**

Deputy, just to be clear, at the moment all that is being proposed is that the lodging period be shortened so that it can be debated either today or tomorrow then the Assembly will decide whether it wants to adjourn to tomorrow. I think the Minister is indicating he thinks it might be a good idea on the basis that this is not a 5 minute matter.

**Deputy J.H. Young:**

Can I clarify then? Is the Minister proposing that this be put back on the agenda for tomorrow and we continue tomorrow? Is that what the Minister is proposing?

**The Bailiff:**

Yes.

**Deputy J.A. Martin:**

Sorry, can I seek clarification, the 19th is Thursday.

**The Bailiff:**

I know and that is why we still have to shorten the period.

**Deputy J.A. Martin:**

I see. Thank you.

**The Bailiff:**

Very well. All those in favour of shortening the period so as to allow to debate either today or tomorrow please show. Those against. That is carried. It is shortly before 5.30 p.m. and clearly this matter will take a little time. Do Members want to adjourn at this stage and come back tomorrow?

**The Connétable of St. John:**

Can I propose we work on for another hour?

**The Bailiff:**

We will have a vote. The adjournment has been proposed so if you want to adjourn now and come back tomorrow for the remaining matters you vote pour. If you do not you vote contre. Is the appel called for on this? The appel is called for on whether to adjourn now, and the Greffier will open the voting. Very well, the Greffier will close the voting. Is there any Member who wants to stand up and says he does not understand what is being proposed? **[Laughter]** Very well, the Greffier will close the voting.

<b>POUR: 35</b>		<b>CONTRE: 7</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator F.du H. Le Gresley		
Senator P.F.C. Ozouf		Senator L.J. Farnham		
Senator A. Breckon		Connétable of St. John		
Senator S.C. Ferguson		Connétable of St. Ouen		
Senator B.I. Le Marquand		Deputy S.S.P.A. Power (B)		
Senator I.J. Gorst		Deputy J.M. Maçon (S)		
Connétable of St. Helier		Deputy G.C.L. Baudains (C)		
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				

Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

**The Bailiff:**

Just before we adjourn then certain matters have been lodged, Projet 119 - Milli's Contact Centre: funding - lodged by Deputy Southern; Projet 120 - Redundancy payments: businesses which have ceased trading - lodged by Deputy Southern; and R.81 - Land Transactions under Standing Orders - 5 Library Place, St. Helier - presented by the Minister for Treasury and Resources. The Assembly will now adjourn until 9.30 a.m. tomorrow morning.

**ADJOURNMENT**

[17:26]