

4.12 The Deputy of St. Mary of the Minister for Economic Development regarding the purpose of the Plant Varieties Law:

Can the Minister explain briefly the purpose of the Plant Varieties Law he is considering lodging and advise whether he has plans for Jersey to become a new centre for people developing new plant varieties and, if not, outline who will be using this new law, why they would use this law and how it fits into their business model?

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

The development of Intellectual Property Law is a high priority for Economic Development because it is believed that intellectual property or I.P. could be a major potential contributor to Jersey's economy in the future, particularly when linked to the development of E-Commerce in the Island. A new Plant Varieties Law will create plant breeders' rights which are a form of I.P. that protects new varieties of plants. The law will entitle the holder of the plant variety I.P. to prevent anyone from producing, re-producing, importing, exporting or dealing in the protected variety and seeds without the holder's authority. While the law may create opportunities within horticulture and agriculture in Jersey, this has not been the main reason for its development. It is all about improving Jersey's attractiveness as a jurisdiction for intellectual property related business. That will require compliance with international conventions and agreements. Jersey cannot, for example, comply with the T.R.I.P.S. (Trade Related Aspects of Intellectual Property Rights) Agreement and the Paris Convention without a general scheme for protection for new varieties of plant. This is the true value of our new Plant Varieties Law which I look forward to bringing to the House for approval next year.

4.12.1 The Deputy of St. Mary:

It is interesting that he comments and does not mention the issue of transfer pricing. He mentions the issue of protecting plant varieties which may be all well and good but is he aware that the matter of transfer pricing - that is valuing the intellectual property in Jersey at way over its market price in order to avoid tax - is moving up the international agenda? Would he comment on the risk to Jersey's reputation that is implied in this law if it goes down the road of enabling transfer pricing to take place?

Senator A.J.H. Maclean:

Yes, I am aware of the issues surrounding transfer pricing. The Deputy will be aware that this law is in the development stage, although it is intended to be brought to the House at the beginning of 2010 and, indeed, as part of the Economic Affairs Scrutiny Panel, he and his panel will have the opportunity to scrutinise it in good time.

4.12.2 Senator S. Syvret:

Is the Minister aware of the potential for significant harm to Jersey's standing and reputation that arises from the possibility of the overzealous and opportunistic application of intellectual property to food and plant varieties? I need only point to the reputation of companies like transnational corporations like Monsanto, for example. Much of the developing world and indeed many other people in the developed world view the whole business of copywriting and patenting food production to be a thoroughly repugnant and ethically undesirable activity. So will the Minister be alert to that fact and understand the potential risks to the Island's reputation?

Senator A.J.H. Maclean:

Yes, clearly, in any opportunity, there also lies risks and I think it is important that we recognise that when developing this law. We should also bear in mind that Jersey's current intellectual property legislative framework is woefully inadequate, it is out of date, it does need to be modernised and that is a primary driver behind our moves to bring new legislation before this Assembly next year.

4.12.3 Senator A. Breckon:

I wonder if the Minister could say how many staff will be required to administer and implement this law, at what cost and whether these will be new posts or whether they will come from existing manpower?

Senator A.J.H. Maclean:

Could I ask the Deputy just to confirm? I assume he is referring to the Plant Varieties Law.

Senator A. Breckon:

Yes.

Senator A.J.H. Maclean:

It will depend clearly upon demand. It is expected that a controller will be required and possibly one other member of staff, and it is anticipated that it will be resourced from within the existing headcount of the department.

4.12.4 The Deputy of St. Mary:

I have just been looking at my notes and realised that the first question was not answered at all, so I will repeat it. Could the Minister explain which companies would use this law, why they would use it and how it fits into their business model?

Senator A.J.H. Maclean:

I do believe I did answer the question. Nevertheless, I identified the fact that there is believed to be some potential with this law within the horticultural and agricultural industries within the Island but the main driver behind the introduction of this law which will come before the States next year is to ensure that we are compliant with important international conventions in order to allow us to develop our intellectual property legislation.

4.12.5 The Deputy of St. Mary:

Can I just ask one other supplementary? Why has the Minister chosen to prioritise plant varieties when, as Senator Syvret has pointed out, this is probably the most sensitive area in terms of world public opinion that he could have chosen?

Senator A.J.H. Maclean:

It is a necessity in order to become compliant to the international conventions that we bring forward the new Plant Varieties Law and that is the reason.