

**WRITTEN QUESTION TO THE MINISTER FOR SOCIAL SECURITY
BY DEPUTY G.P. SOUTHERN OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 26th APRIL 2016**

Question

Further to the Minister's statement in P.38/2016 'Draft Employment (Amendment No. 10) (Jersey) Law 201-' that: "The debate of this draft Law will provide an opportunity for States Members to demonstrate whether they support a move to higher minimum wage rate for older employees, in principle, before the Forum releases its public consultation on the minimum wage", for what reasons has she chosen to seek members' opinions and to ask the Employment Forum to consult on the minimum wage at the same time and what assessment has she made of the risk that this approach may skew any results thereby obtained?

Answer

The Minister's Proposition (P.38/2016) asks States Members to approve an amendment to the Employment Law. The reason for proposing the amendment at this time is explained in the report that the Deputy has quoted from. It states that "*Jersey's minimum wage must currently be paid to all employees over school leaving age (usually age 16). If we are to consider introducing a higher rate for older employees next year, a primary law change must be made now to allow time for Privy Council assent to be granted before 1 April 2017.*"

If we do not make this enabling change now and the Forum recommends a higher rate for older employees in September, it is unlikely that the Employment (Jersey) Law 2003 could be amended in time to allow that new rate to be introduced on 1 April 2017. Any additional pay that employees might have received from 1 April 2017 would be delayed by the requirement for a primary law change.

There is also a second risk in delaying the debate of this amendment until the Forum's recommendation has been delivered at the end of September. If the Forum were to recommend a minimum wage system based around a new higher rate for over 25's and then in December the States rejected the enabling legislation that would permit that higher rate, this would leave the minimum wage levels for 1 April 2017 uncertain, with no time for the Forum to undertake a further review. It is more appropriate that the Forum is clear on the statutory position before its review process starts.

The Forum itself advocated this approach in last years' minimum wage recommendation commenting as follows in relation to the UK's 'National Living Wage'; "*If the Minister intends to direct the Forum to consult on the possibility of introducing a higher minimum wage similar to the UK's 'premium' wage rate for over 25's, it will be important to consider first whether there is a political inclination to amend the Employment Law to permit different minimum wages to be prescribed for employees of different ages.*"

While the debate of this amendment will give Members a chance to express their views, if they wish, the Minister is simply asking Members to agree to introduce an enabling power that **may** be used in April 2017, **if required**, subject to the Forum's recommendations. The amendment does not require any different rates to be set for employees of different ages. However, without this amendment, such a rate cannot be considered.

The decision of the States must, therefore, inform the scope of the Forum's consultation. If Members will not contemplate a higher rate for older employees, then it would be unreasonable to ask the Forum to consult on the option and it would be unfair on respondents for the Forum to present this as an option in the consultation.

The Forum will prepare its review in May and will consult during June to August 2016. The decision of the States will be known to the Forum before it starts its review. The Minister's letter to the Forum directing this year's minimum wage review advised the Forum that this amendment to the Employment Law "*will be debated by the Assembly on 24 May which should allow us to find out, before you release your consultation, whether States Members are willing to consider introducing a higher minimum wage for older employees. If States Members do not agree, then of course this would limit the scope of your consultation.*"