

# **STATES OF JERSEY**



## **REGULATORY REFORM: REPORT ON THE REVIEW FINDINGS**

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**Presented to the States on 13th September 2005  
by the Policy and Resources Committee**

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**STATES GREFFE**

# **REPORT**

## **Introduction**

This Report provides information on the Regulatory Reform review, the “Red Tape review” that was promoted by the Policy and Resources Committee in P.134/2004. The States agreed the Proposition in September 2004 and the “Red tape review” was carried out over the period December 2004 – March 2005.

The Policy and Resources Committee are pleased to submit to the States this Report on the findings of the review. It provides information on both the results of the survey and the methodology behind it. The Report also highlights the positive outcomes of the project and suggests how the results should impact on future regulatory development.

It is never easy to ensure public engagement in a survey and with this in mind considerable effort was put into promoting the survey and offering people the chance to respond. In some respects the results are what might have been expected but in others they are encouraging.

Exercises such as this are negative in their nature. The Red Tape survey was effectively asking people to criticise both the States administration and the Island’s legislation. It asked people to give examples of duplication, outdated requirements and unnecessarily complicated regulation. It also asked people to provide suggestions for improvement. It did not ask people to send in examples of good customer service or good legislation and regulation.

Accordingly, although negative comments were received, the number of such comments based on the number of people affected by regulation and the number of users of the services provided by the States administration was very low.

As the conclusion to this Report shows, the Red Tape survey has been a worthwhile exercise which has produced much encouraging evidence as well as some solid foundations upon which to build.

## **The Report that follows describes:**

- (A) The aims and methodology of the survey
- (B) The responses
- (C) The key findings
- (D) Conclusions

## **(A) Aims and methodology of the survey**

### Aims:

In September 2004 the Committee took Report and Proposition P.134/2004, entitled “Regulatory Reform”, to the States. The States adopted the proposition that “States Committees should carry out a programme of regulatory audits of current and proposed legislation, to be co-ordinated by the Policy and Resources Committee, with a view to reducing the burden of legislation<sup>[1]</sup>”.

In bringing forward the Report and Proposition, the Policy and Resources Committee made the following comments –

“It has been widely acknowledged that Jersey has a considerable amount of regulation, and it could be argued that at least some of this regulation is unnecessary. What constitutes over-regulation can be a wide range of factors, but the following difficulties are frequently encountered in relation to legislation in Jersey:

- An overlap of different regulatory regimes
- Duplication of requirements in different regulatory regimes
- Requirements to keep records that aren’t really needed
- Requirements to make returns of information that isn’t really needed
- Unnecessarily complex or ambiguous application forms.”

### Methodology:

#### (a) Working Groups:

##### (i) Structure:

In accordance with the recommendations of P.134/2004, Working Groups were set up by States Committees, with one group for each Committee. Each Working Group was required to carry out an audit of both their existing and proposed legislation. The Working Groups were to include external independent members and were required to report back to the Policy and Resources Committee by the end of March 2005. (This date was subsequently extended to the end of April 2005.)

Although the parishes fell out of the remit of the review (as they are not States Committees) it was anticipated that some of the comments that might be received would relate to matters of parish and not departmental responsibility. Accordingly the Connétables were advised of the Red Tape survey and asked to comment if they wished on matters arising within their jurisdiction.

In addition to the Red Tape review, a parallel project dealing with red tape “bureaucracy” was about to be launched by the Change Team<sup>[2]</sup>. It was agreed that it was not realistic to expect contributors to differentiate between red tape issues that were embedded in legislation as opposed to bureaucratic practices. Accordingly the Change Team set up a Working Group to work in conjunction with the Committee working groups.

##### (ii) Working Guidelines:

Guidelines were produced to assist the groups in their task. It was decided that it was not necessary for Working Groups to review legislation for which their Committees were responsible if such legislation had just been the subject of major review or had been put in place recently (e.g. the Data Protection and Employment Laws).

The purpose of the review was to ask for examples of “red tape” so as to assess the nature of any issues seen as problematical, but not to individually answer all submissions. It was intended that the manner in which comments

received were dealt with would be provided in this final summary<sup>[3]</sup>. Similarly, Working Groups were not expected to review individual decisions taken by Committees and commented upon in submissions (e.g. with regard to planning decisions).

(iii) Recording of submissions:

Responses were logged on receipt by the Project Manager at the Policy and Resources Department and then directed to the relevant Working Group for comment. Any responses that referred to bureaucratic issues were forwarded to the Change Team Working Group. Working groups were required to note any contributions and then comment on how they were dealt with in the final reports that each group submitted to the Policy and Resources Committee.

(iv) Committees/Departments which fell outside of the Review:

The Bailiff's Chambers; the Law Officers; the Judicial Greffe and the Viscount's Department all have connections with the Finance and Economics Committee. However, the Committee does not "control" them. It was felt that these departments and any legislation affecting them were outside the remit of the review as they were "judicial" departments whose work related to the judicial system and the management of the courts. As such they were not administrative policy-making departments of the States with legislation eligible for review within the red tape project. Consequently their legislation was not reviewed.

(b) Publicity:

At the beginning of the review 75 letters were sent to organisations, of which 5 replied. Press releases were issued during the review. A red tape logo was designed and posters were printed for use in the main public offices of States buildings, Parish Halls and at the Contact Centre. A Red Tape site was established on the main gov.je website and information and updates on the project were regularly posted. A red tape e-mail address was opened. The general public were encouraged to contact the department with any examples of red tape they had experienced either by letter to the Policy and Resources department; by using the on-line feedback form on the Red Tape website or by sending an e-mail to the Red Tape address. Replies were confidential but if contributors were agreeable the text of their contribution was published on the gov.je site by way of example. States employees also received an e-mail asking them to contribute and updates were printed in the internal Changing States publication.

**(B) Responses and comments received during the review from members of the public, organisations and States of Jersey employees**

A high-level summary of the comments received is included at *Appendix A*. As comments were received on a confidential basis greater detail is not provided, however, the points listed clearly provide a feel for the areas that were highlighted for attention during the review. Where appropriate, the appendix includes an indication in italics as to how responses have been dealt with.

(i) Number of responses:

The cut-off point for receipt of submissions was 25th March. In total, 76 responses were received by the Red Tape Project Manager by this date. 6 additional responses were received shortly afterwards and they were subsequently included making a total of 82.

Thirty-eight of these responses came from States employees and 44 from the general public, including 5 from major organisations. However some contained more than one comment and in total 132 comments were raised although they often referred to the same areas (e.g. planning).

(ii) Change Team issues:

The majority of responses from States employees raised issues of a bureaucratic nature and these were forwarded to and handled by the Change Team. The Change Team work by means of “Workstreams”, each of which reflects a different function. The workstreams are Human Resources; Finance Review; Property; ICT; Customer Access and Procurement. Some issues that were raised will not be resolved immediately as they will need to be dealt with as part of the “bigger pictures” of change being handled by the workstreams. However, some immediate changes did result from comments received, such as simpler payment methods for the payment of vehicle registration duty payable by the States; revisions to the Airport website and a simplified approval process for “(j)” category licences.

(iii) Committee Working Group Issues:

Just over 400 pieces of legislation were reviewed by the Working Groups.

Some Working Groups received no comments on the legislation for which their Committees are responsible<sup>[4]</sup>. The Planning and Environment and Economic Development Committees received several comments each relating to the Planning Law and Regulations and Undertakings Law respectively. This was not surprising as such legislation, by virtue of its requirements, impacts on large numbers of people<sup>[5]</sup>. Other Committees receiving comments included the Employment and Social Security Committee on the payment of contributions; the Finance and Economics Committee (Income Tax Department) on tax forms and tax requirements and the Home Affairs Committee on vehicle registration and driving test issues.

In some cases Working Groups were aware of comments that had been made to the department responsible outside of the Red Tape Review and so included them in their considerations. The Harbours Working Party for example, were aware of issues arising in relation to the Community Provisions (Ship and Port Facility – Security) (Jersey) Regulations 2004 and the Maritime Security (Jersey) Order 1996, where much discussion has taken place with commercial port users regarding cost and inconvenience. Issues have also arisen in relation to boat registration where it is not infrequent to receive criticism of the overlap between 2 sets of requirements. In such circumstances recommendations have been put forward as part of this review (see Appendix A).

(iv) Parish issues:

Comments were also received on the issue of dog and driving licences and Sunday trading and licensing. Such matters fell outside of the review as the legislation regulating these issues is administered by the parishes. Accordingly such comments were passed on to the Comité des Connétables for consideration.

**(C) Key findings:**

(a) Over-regulation not proven:

The legislative review carried out by the Committee Working Groups has resulted in little evidence to support the belief that the Island is unnecessarily over-regulated from either a legislative or bureaucratic perspective. Two of the organisations which responded, both of whom are in the business sector, specifically referred to this fact. One said that in general they did “not believe that there is excessive Red Tape at present” and the other had “only a few areas of concern as regards red tape and its application”.

As part of the review process, groups were asked to complete templates for each law they reviewed. These frequently recorded the conclusion that the law is “needed” and there is “no scope for change”. However, it is acknowledged that although over-regulation did not appear to be a big issue there is still room for review of some of the Island’s legislation. This can be seen in the Working Group recommendations cited in Appendix B which shows both ideas for change put forward and actual work in progress.

The report of the Change Team who handled the “red tape” bureaucracy comments also concluded that over-regulation was not a big issue:” Over a period of 4 months however, it is possible to conclude that though there are some procedural red tape issues to be resolved within the States of Jersey, the perception that the organisation

is unduly overburdened in this area is an inaccurate one<sup>[6]</sup>.” Again, changes were recommended but the changes were improvements to systems rather than removal<sup>[7]</sup>.

(b) Public perception:

One real issue appears to be that of public perception. People believe they are bound by “red tape”. This belief was portrayed in the ‘Imagine Jersey’ workshops and, even after the closing date for the Red Tape review, it is a belief that is still being publicly expressed by representatives of some of the Island’s commercial organisations. Yet, as response numbers show, relatively few detailed comments were received about the red tape that is causing such difficulties. Many comments were general in nature including some of those related to “policy” such as Regulation of Undertakings and some areas of the finance industry. Few of the comments received however gave suggestions as to how improvement might be made.

Some general comment was received about the nature of the States administration. One organisation stated: “We believe that it is important to recognise that additional burdens are not always placed on business and Islanders just because of “red tape”. Delays and frustration are often caused, not by legislation itself, but by the processes and style of delivery of those involved”.

Although such comments were few in number, this view was partly echoed in the comments of some individuals who felt that some departments employed far too many staff who had “inflated” opinions of themselves; or who did not appreciate the importance that speed of delivery might have over strict order of delivery. There was also felt to be a lack of co-ordination between departments, although this was acknowledged in some cases to be possibly due to data protection requirements.

The Island’s Planning and Regulation of Undertakings legislation were referred to on several occasions as problematic. The planning laws were generally seen to be overly restrictive and applied inconsistently. Frustration was expressed at the length of time applications took to be processed. The Regulations of Undertakings Law was generally felt to stifle enterprise and issues regarding timeliness and perceived inflexibility were raised.

However, in both cases new legislation is being considered which is likely to improve the administrative and legislative processes at which criticism was levied. In addition, both Working Groups responsible for these laws had justifiable comments to make in defence of their position:

The Planning Department has maintained that the Island’s planning law has to take account of certain international obligations. In addition, its building bye-laws adopt U.K. legislation and are no more onerous. Resource issues can affect the speed with which applications are processed but, once better understood by the applicant, issues are often resolved. The new Planning and Building (Jersey) Law 2002<sup>[8]</sup>, which has been widely consulted upon, is due to come into effect at the end of 2005 and it will streamline the current legislation. Subordinate orders are also being reviewed under the proposed new legislation “with a view to lifting the burden of regulation<sup>[9]</sup>”.

The comments relating to the Regulation of Undertakings Law were felt by the Economic Development Committee Working Group to be “unfair in that since the inception of the EDC, there had been a notable relaxation of policies applied under the law<sup>[10]</sup>”. It was also felt that the criticism levied did not similarly reflect the amount of positive comment received by the Regulation of Undertakings Department which goes unnoticed.

(c) Working Group results:

(i) Out-of-date legislation:

The Working Groups made few comments received about legislation being out of date in its style or inaccessible. <sup>[11]</sup> It is felt true to say that modern law drafting styles attempt to be clearer both in the language used and the structure of the legislation itself.

The Home Affairs Driver Vehicle Standards group was the group most strongly critical of any area of legislation. “The overall view of the independent members of the group reviewing the Driver and Vehicle Standards Department (DVS) legislation is that it is “*a nightmare*”, particularly with regard to the Road Traffic (Jersey) Law 1956 and subordinate legislation.

“One of the independent members set about trying to rewrite the legislation, but gave up, as they found out that changing one piece of legislation impacted on so many others”<sup>[12]</sup>. The Road Traffic (Jersey) Law 1956 was found to be “inaccessible and complicated<sup>[13]</sup>” but it was noted “salient parts of the legislation have been written in ‘user-friendly’ terms accessible to the public in leaflets, and on the Department’s website<sup>[14]</sup>”. From the perspective of the Red Tape review it was encouraging to note that this practical approach had been taken by the department and that no comments were received from the general public during the consultation period other than concerning driving tests and vehicle registration.

The work carried out by the working groups revealed just how much attention is given to law revision work by Committees as part of their normal workload responsibility. A glance at *Appendix B* to this Report shows how much legislation is either currently under review or about to be replaced by new legislation.

The review of legislation by the Working Groups has highlighted a considerable number of items of legislation for change. These suggestions are recorded in Appendix B. Also noted in Appendix B are the many other areas of legislation that the Working Groups have recorded as not prompted by the Red Tape review but arising out of general recognition of the need to update and keep pace with new policies. Examples of such areas of legislation are financial services; Regulation of Undertakings and Development Law<sup>[15]</sup>; Gambling; Air Transport; Planning; Consumer Protection; Employment; Social Security and Road Traffic.

(ii) The use of delegated powers and subordinate legislation:

The Working Groups’ review revealed that much legislation, both old and new, does already make use of delegated powers and subordinate legislation. Use of such powers saves on administrative and law drafting time and simplifies processes generally.

However, one area where reduction both in law drafting and States debating time could be achieved appears to be in the area of fee-setting and the preparation of forms and certificates. The Health and Social Services Working Group are carrying out work in this area as a result of the review.

A lot of the Island’s financial services legislation is comparatively recent. Powers within the legislation regularly allow for Orders to be made and there are proposals to further simplify the setting of fees by delegating that responsibility directly to the Commission.

Also, as a result of the review, the Home Affairs Committee have suggested that fees set under the Petroleum (Jersey) Law 1984 might be set by Order by the Committee rather than as currently by Regulation.<sup>[16]</sup>

(iii) Data protection:

The issue of data protection was discussed at one of the meetings for Working Group heads. Departments seemed able to work within the data protection legislation. The particular issue raised during the consultation period was the necessity for an individual to acquire proof of his residency in the Island by contacting his or her old school before being able to buy a house. It was agreed that this issue was one that was likely to be reviewed as part of the forthcoming implementation of the migration policy.

(iv) A beneficial exercise:

It is true to say that most departments and Working Groups initially felt that this exercise was yet another weighty piece of work being assigned to them at a time when their workloads were already excessive. For many the end result has proved most positive for the review has proven that much good work is already under way and that the legislation by which they operate is not gratuitous.

(v) Quality of internal comment high:

At one point, criticism was received that States employees would not objectively criticise their working patterns. However, it is worth noting that the quality of comment submitted by States employees was high. Particular issues revolved around training and registration processes; payment and recording of expenses and effectiveness of IT systems. These comments have been sent to the Change Team. However, they have also commented in their Report that “It should also be noted that in a couple of instances submissions were based on either a lack of knowledge or inaccurate information and as a result no further action was necessary”<sup>[17]</sup>.

**(D) Conclusions:**

(a) Some legislation is necessary:

Legislation has a key role to play in providing a regulatory structure within which a society can function. As has been said on many an occasion, Jersey, by virtue of its constitutional position and its economic success, is a unique society. Although it is small, the Island has a recognised place on the global stage. This means that outsiders and residents alike expect certain standards of its regulatory framework. It also means that the Island can be affected by the regulatory systems of external organisations such as the European Union, the International Labour Organisation and the OECD, to name but a few. In addition, legislation must be in place to ensure compliance with International Treaties to which the Island is signed up.

Satisfying such expectations and obligations is a fine balancing act. Many are unaware of the complexity and breadth of the issues that are addressed by the Island’s laws, for it is true to say that for most people large areas of legislation will never impinge on their daily life. As with all regulation, when it does impact, those affected, whether they be individuals, corporations, voluntary sector societies or government departments, may be surprised by the implications involved. However, if the reason for the legislation is understood any issues raised can often be handled with greater appreciation.

(b) Is there evidence of excessive regulation?

Considerable publicity was given to the Red Tape review in order to promote it and encourage submissions. Although the response rate was comparatively low, the comments have in many cases been useful, and changes will result<sup>[18]</sup>. However, the results cannot be said to support a belief that the Island is being ‘strangled’ by red tape.

Little evidence was found of duplicated or unnecessary information. Duplication of information was found in some of the boat registration requirements and recommendations have been made in this respect<sup>[19]</sup>. Although some systems by which information is recorded are under revision (e.g. social security; income tax) the information is still needed. The Agricultural returns system was the only one queried during the review in terms of whether the collection of the data was necessary.

Some overlap of legislative responsibility was found in areas where legislation impacts across departments (e.g. legislation dealing with public roads and utilities). The Motor Traffic Legislation, currently the responsibility of the Home Affairs Committee, might be more suitably administered by the Environment and Public Services Committee who are in any case working on a new transport strategy. This matter has been the subject of discussion between the Policy and Resources, Environment and Public Services and Home Affairs Committees. A Report and Proposition (P.194/2005) which recommends the transfer of Driver and Vehicle Standards to Transport and Technical Services was lodged au Greffe on 6th September 2005.

(c) Improvement to some working practices possible:

While the legislative review carried out by the Working Groups found little excessive regulation or “red tape”, it is acknowledged that some working practices within the States could be streamlined. The Change Team had

already started work in this area prior to the commencement of the review. It will continue the work as part of the move to ministerial government and the States' commitment to a "Better, Cheaper, Simpler" style of governance. The Red Tape review suggestions will be considered in this ongoing work if it has not already been dealt with. In some cases change has been quick to result, but in many cases results will not be seen straightaway as the issues need to be fed into the appropriate workstreams for detailed consideration as part of a bigger change pattern.

Also recognised is that in some cases resource issues with regard to the number of staff available to handle departmental workloads, such as the processing of applications, do have an impact on how efficiently administrative procedures can be dealt with. There are also resource constraints on the amount of law drafting time available to deal with the new legislation that is to be drafted.

It is anticipated that the current changes in government structure brought about as part of the move to a ministerial system of government and the "Better, Simpler, Cheaper" goal will help dispense with criticisms appertaining to lengthy processes and excess staffing in the States administration. Also acknowledged is the ongoing need for States personnel to maintain high standards of customer service.

(d) The law drafting process:

The Law Draftsman suggested a number of less formal approaches to legislation at the outset of the Red Tape review. They included the use of Codes of Practice, sunset clauses and negative licensing terms. Such suggestions were included in P.134/2004.

However the Law Draftsman has confirmed that the development of new approaches to regulation is not something that can readily be done retrospectively. It is a mindset change that needs to be promoted and infused into future practice. It is hoped that those responsible for the preparation of law drafting instructions in the future will continue the work started by this review and consider more flexible approaches to regulation. It should be noted though that some progress is already being made, for example, the changes proposed by the Health and Social Services Committee to fee-setting and also to the increasing use of Codes of Practice rather than regulation. (e.g. by the Employment and Social Security Committee who have introduced such codes in the areas of Health and Safety and Employment Law).

(e) Improving the perception of "Red Tape":

Whilst demonstrating that there is a need for regulation, the review has made Committees and departments focus on the legislation for which they are responsible. As part of the review process, Working Groups were asked to consider new ways of delivering the requirements imposed, perhaps through the use of "light touch" alternatives to legislation. It is hoped that this revision process will be the start of a culture whereby any legislation that is drafted in future will be approached from a critical stance which will question both its necessity and its style.

Similarly, it is hoped that the seeds of a culture have been sown whereby the need for any bureaucratic system and the processes it involves are constantly open to review.

However, the Committee accepts that even if legislation and bureaucratic processes can be justified, they are still capable of being perceived as "Red Tape." The ultimate achievement to arise from this review would be to find a means by which high regulatory standards and efficient bureaucratic processes could be achieved without leaving people either feeling or perceiving themselves to be bound by red tape.

It is hoped that this survey has paved the way for a cultural change in the right direction.

(f) A Joint Effort:

The Policy and Resources Committee would like to thank States Committees and their Working Groups for their co-operation and support in carrying out this review. The review has required a significant investment of time and effort on the part of the Working Groups and the Committee would like to thank them for their contribution and commitment to what has been very much a joint effort.

The Policy and Resources Committee believes that it is important to maintain the momentum that has been generated by this review. It will be keeping in touch with the Change Team and writing to Committees to ask them to report back in July 2006 on the progress they have made in implementing the suggestions put forward in the review.

## Regulatory Reform “Red Tape” Review

### BREAKDOWN OF RESPONSES RECEIVED BY THE WORKING GROUPS:

#### Notes:

- (i) A brief explanation of how comments have been dealt with, where appropriate, is given in italics and brackets after the comment. In some cases developments will have occurred since this information was prepared for print.
- (ii) Comments marked “\*” were received after the deadline date but will be dealt with in the follow-up work to the review.

- **Policy and Resources:**

Comments x 2 on the processes involved surrounding the granting of “(j)” category licences: (*improvement made: process now further streamlined; referred to HR Workstream*).

Fragmented approach to law drafting; lack of consultation between departments; conflicting approaches of departments (*noted – current government reforms should address these issues*).

Excessive numbers/inappropriate attitude of civil servants x 4 (*noted – current government reforms should address these issues; ongoing importance of good customer service recorded*).

Cost of sending people to prison for minor offences is high to the taxpayer.

Issues re hiring of temporary staff within the States (*reviewed by States HR Department*).

Contact Centre not used (*project was new – positive feedback has now been received*).

Number of surveys carried out too many.

- **Housing:**

Need for application to both Housing and Agriculture and Fisheries when purchasing Agricultural land (*issue will be reviewed as part of migration policy*).

Comments x 2 concerning the processes involved in getting a Housing qualifications certificate (*will be reviewed as part of migration policy*).

- **Home Affairs:**

Issues around the transfer of number plates (*system allows the department to control use of registration numbers. Individual can transfer no. to another vehicle in his ownership within 6 months*).

Why, if you have a bike and a car, do you need 2 driving tests? (*practice is as in U.K.; the disciplines are separate but could be reviewed*).

Issues around the employment of non-EU nationals (*not a duplication issue – 2 separate issues involved – referred to Other Workstream*).

- **Health and Social Services:**

Processes re patient referral (*possible confusion as to how system operates – sent to Workstream*).

Issues around patient information and case-note recording (*electronic recording system to be developed which will reduce duplication; matters of patient safety to be considered which means some unavoidable duplication; referred to ICT Workstream*).

Professional registration requirements (*needed on governance grounds*).

Processes relating to purchase of new vehicles and payment of tax on them: (*improvement made – tax can now be paid via the BACS system – VRD will disappear if GST comes in*).

- **Harbours:**

Processes around registration of craft x 2 (*proposals to amend law put forward: register every 5 years or on change of ownership*).

- **Airport:**

Inadequate information on arrivals/departures screen (*sent to ICT workstream – now improved*).

Circulation of Jersey money and non-acceptance by airport machines of Jersey £1 notes (*notes jam the machine and notes not given as change*).

Eastern door of airport often closed (*due to north-easterly wind*).

- **Finance and Economics:**

Issues around the workings of the States JDE accounting system and helpdesk x 5 (*either being considered as part of ICT review or dealt with by Finance Workstream*).

Duplication of company tax forms relating to payment of benefits in kind (*a new system – consultation has taken place – will be reviewed after a year*).

Guernsey tax forms simpler – don't require documentary evidence of interest paid or earned (*Amendment would be required to Article 90– referred to Finance Regulatory Group – may lead to missed declarations*)

Tax forms designed for men, not women (*Article 121 of Income Tax Law would need amendment– sent to Regulatory Workstream for consideration*).

Concern at additional administrative burden that will be placed on employers as a result of the need to collect taxes or other dues on behalf of the States x 2 (*Income Tax office mindful of issues – guidance notes; presentations etc all planned*).

Suggestion that the sending of Remittance Advice notes from Treasury is not necessary (*remittance advice felt to be essential but could be e-mailed not posted – sent to Finance Workstream*).

Use of manually as opposed to electronically filled time sheets (*sent to States HR Workstream*).

Methods of collecting income tax including those for self-employed contributors (*Income tax laws and regulations under continual review – procedures adopted at Employment and Social Security relating to self-employed contributions have been amended as a result of comments received*).

Method of representation of small departments at Finance and Economics Committee (*will change slightly under new ministerial government system – sent to Finance Workstream*).

- **Environment and Public Services:**

Lengthy planning processes involved in application for the erection of signs (*each site a separate application which by law has to be registered/advertised; permission of all landowners required – some delays as a result of resource issues*).

Processes relating to land transactions (*to be within the remit of the new Property Holdings department – will be forwarded for consideration*).

Processes relating to 5th category provisional license applications (*noted for consideration in any review of licensing legislation*).

Comments re the splitting of the planning and bye-law permit system (*new system quicker – applications now dealt with concurrently rather than in sequence. Permissions now extended from 3 to 5 years – a limit is needed because policies and bye-laws change*).

Issues concerning applications involving listed buildings (*new system advising owners when their property is registered as listed – issues re awarding of grants and altering appearance of property likely to be reviewed in near future*).

New building regulations over-regulate and are complex and expensive to comply with x 2 (*Jersey Building bye-laws identical to U.K. – to be reviewed – sent to Workstream*).

Time lag between planning application approval and building regulation approval can be crucial.

Over-regulation of planning rules and manner in which they are applied x 2 (*threshold slightly lower than U.K. and was increased in 2002 and likely to be reviewed again when the new Planning and Building Law comes in at the end of 2005*).

Use of old JCG building (*premises do not lend themselves to requirements of a modern police force – feasibility study to be undertaken re possible future uses*).

Comments on the fact that waste is collected separately by each parish (*Current Waste Strategy proposals deal with issues of waste disposal and proposes a joint initiative with the parishes*).

- **Employment and Social Security:**

Method of collection of Social Security from States members (*under review by PPC; Treasury and ESS – sent to Finance Workstream*).

Better policy explanation needed re issue of benefits x 1 (*advice available in leaflets which have been reviewed by Plain English Society and on website; also from the department*).

Unnecessary duplication of procedures relating to payment of social security contributions (*an individual is responsible for his own social security payments and is kept updated – any arrangements outside those provided for by the Social Security scheme fall outside the department's remit*).

Issue re required registration of Employment Agencies when access to register not allowed to the public (*relevant legislation currently under review*).

Better streamlining of system needed for payment of social security contributions by small businesses (*current provisions not as restrictive as previously – more time to pay allowed (larger businesses are obliged to pay contributions monthly not quarterly); direct debit facility being set up for all businesses to pay contributions monthly in advance if so wished*).

Confusing information re application for an Earnings related figure (*Other comments received outside of red tape review – referred to ESS Change Team and also to Finance Workstream for consultation with ESS – claim procedure has been amended*).

Why is it necessary to have an ESS form for self-employed contributors when tax form previously adequate? (*Sent to Finance Workstream for discussion with ESS – procedure now altered*).

Calculation of Class 11 liability should be reviewed – can be extremely restrictive.\*

- **Education:**

Centralise booking of Sports facilities (*sent to Customer Access workstream – work in progress to improve*).

- **Economic Development:**

Allow Sunday Shopping x 2 (*a licensing matter – referred to the Comité des Connétables*).

Regulation and undertakings law “a paper game” – 3 year licence and reviews pointless (*to be reviewed as part of the migration policy*).

A waste of time to re-do bar/restaurant licences annually – Police check establishments anyway (*likely review of licensing legislation to take place – but annual renewal allows element of control and not dissimilar to U.K. practice; sent to Workstream*).

New payroll and GST taxes will be administratively burdensome.

Immigration – New regulations relating to Regulations and Undertakings and Housing issues must be simpler than the current ones.

Regulation of Undertakings law should be abandoned.

Jersey Competition Regulatory Authority – must not be allowed to mushroom.

Casino should be allowed because bets can, in any case, be placed through the internet (*see footnote below<sup>[20]</sup>*).

Agricultural returns: do they collect the right data? (*to be considered by EDC*).

- **Change team:**

Additional ideas for the contact centre: registration for adult education classes; applications for places at Island’s schools; grant applications; Rates forms; dog and gun licences; voting register applications.

Further ideas around the “One Stop Shop” approach to the holding of information (*forwarded to Customer Access*

*Workstream to progress).*

Repetitive practices relating to States training course application forms (*sent to HR Workstream*).

Issues around remote computer access (*under discussion – sent to IT Workstream*).

Customer service monitoring is time-consuming (*departmental policy – practice supports States Strategic Plan – sent to ICT Workstream*).

Lengthy procedures for payment of expenses time-consuming in comparison to value often claimed (*sent to Finance Workstream for consideration*).

Processes for applying for States job applications (*sent to HR Workstream*).

Processes for applying to Computer Services department for IT assistance (*sent to ICT Workstream – consider as part of ICT review*).

Inadequate information and contact details on internal system x 2 (*sent to ICT Workstream – consider as part of ICT review*)

Suggested use of electronic forms to record absence (*work in progress to improve – sent to HR Workstream*).

Need centralised holding of data, e.g. for building contractors (*sent to Procurement Workstream for action*).

Time spent on collection of manpower returns not warranted x 2 (*matter under review by Treasury and as part of Migration policy – with Regulatory and Other Workstreams*).

Issues around authorisation signatures required on forms (*sent to Finance Workstream*).

Issues around size restrictions on e-mail boxes; access to sites (*issues all being handled by CSD – changes/improvements being made; sent to ICT Workstream for information*).

- **Privileges and Procedures:** (*forwarded to Privileges and Procedures Committee for consideration – no Working Group*).

French should not be used in the States and Courts (x 2) any more.

Freedom of Information law unnecessarily bureaucratic.

- **Comité des Connétables:** (*forwarded to Comité for consideration – no Working Group*).

Removal of requirement for driving licences to be renewed every 5 years x 4.

Need for a new licence when moving parish.

Parish of St. Helier: issue of Rates forms with tight and nonsensical deadlines over Christmas period should be reviewed x 2.

Lengthy and repetitive procedures to get a dog licence.

Sunday trading issues.

## General comments from organisations received on:

Planning: *(a review of planning procedures is to be held)*

Frustration at the length of time taken to deal with applications x 2

Inconsistency in planning approvals x 2

Conflict of approach between departments e.g. Planning and Heritage

Lack of common sense approach

Issues around “working from home”

Reduce restrictions on signage\*

Too much involvement by planners in the architecture of a scheme\*

Inappropriate attention to trivia

Unreasonableness of rulings

Streamline the system\*

Increase flexibility of changing property uses by a “User Classes” system\*

Court issues:

Increase number of Royal Court dates for conveyances or remove the requirement\*

Remove the requirement for leases over 9 years in length to be presented to Royal Court\*

Remove legal scales for property and lease transactions\*

Regulation of Undertakings: *(to be reviewed as part of the migration policy)*

It stifles enterprise and drives business away

Market forces should prevail

Presence of such a law gives an impression of negativity to outsiders

Jersey “is closing its door to innovation and enterprise”

Too bureaucratic – applications need to be on correct colour paper!

Should be repealed immediately – housing controls would still apply checks and balances

Timeliness

Perceived inflexibility regarding the requirements of businesses to employ specialist labour

Reduce or remove housing consent process for commercial property\*

Review requirement to obtain Regulation of Undertakings licence to employ additional staff and non-local staffing licences

Companies legislation: *(legislation regularly reviewed – JFSC has a good working relationship with the financial sector)*

Legislation perceived as generally acceptable

Tax office – review underway

Special tax arrangements/application of concessions – speed and consistency of response could be improved *(a resource issue – has resulted in work re-allocation)*

Clarify responsibilities for e.g. 1(1)(k)s; EU Savings Directive

Filing deadlines regarding personal tax returns by tax agents too tight *(have already been put back)*

Tax forms sent to agents – not necessary for each client as a computation for all clients acceptable *(all taxpayers are obliged by law to receive a form, whether or not they have an agent)*

Article 52, Trusts (Jersey) Law 1984 – still in place – onerous and supposed to have been removed *(issue currently under discussion with industry representatives)*

Opening of bank accounts:

Timeliness

Inappropriate attention to trivia (although guidelines provided if not interpreted pragmatically then an early hurdle to any new entrepreneur)

Consultation:

Lack of consultation between departments *(noted – should improve with forthcoming changes to departmental structure in the ministerial system of government)*

With increase in legislation it is imperative to consult so as to avoid unhelpful confrontation and bureaucracy

“(j)” Category licences:

Are difficult to obtain especially if spouse is categorised as an “under 5 years residency employeé” *(to be reviewed as part of the migration policy)*

Sunday Trading Law and Licensing issues: *(calls for a need to review licensing legislation to be considered by EDC)*

Anomalies within the law need resolving x 2

Greater flexibility needed for people who organise events at weekends

Why is the Bailiff’s permission still needed?

Alcohol licensing provisions need review so as to be broader

Necessary to register with Tourism if a food premises but no liquor licence?\*

Review Hawkers’ licences\*

Processes:

Additional burdens not always placed by legislative red tape but by processes and style of delivery of those involved.

## Regulatory Reform “Red Tape” Review

### CHANGES TO LEGISLATION PROPOSED AS A RESULT OF THE REVIEW:

Items put forward for change by each Committee Working Group as a result of the red tape review are listed below. Also shown are areas currently under review.

#### ◆ **Economic Development Committee:**

*Recommended for change:*

- Subject to consultation with the Committee of Connétables – Repeal of the Places of Refreshment (Jersey) Law 1967. Duplication found.
- Amendment or repeal of Article 38(2) of the Weights and Measures (Jersey) Law 1967.
- Repeal of the Weights and Measures (Person Weighing Machines) (Jersey) Order 1975.
- Repeal of the Weights and Measures (Ballast) (Jersey) Order 1968.

*Due for change under current legislative programmes:*

- The Economic Development Committee is currently looking at updating Jersey’s Intellectual Property Legislation in support of a States decision to become a member of the World Trade Organisation. In doing this, there is a requirement to comply with the Trade Related Aspects of Intellectual Property Rights (TRIPS) convention. To achieve that aim the following matters are currently in train –
  - (i) Replace Copyright Act 1911 and Musical Copyright Act 1906 with –
    - A new Copyright (Jersey) Law
    - A new Design Right (Jersey) Law
    - A new Performers Protection (Jersey) Law.
  - (ii) Modernise the Patents (Jersey) Law 1957
  - (iii) Modernise the Registered Designs (Jersey) Law 1957
  - (iv) Extend the Plant Varieties Act 1997 to Jersey<sup>[21]</sup>.
- Regulation of Undertakings and Development (Jersey) Law 1973
- Consumer Protection (Jersey) Law 1964 (new draft law has just finished a consultation period and may be lodged for debate later in 2005).
- Agriculture (Loans and Guarantees) (Jersey) Law 1974 (will fall to be repealed in about 20 years when the last loan is paid up).
- Agricultural Marketing (Jersey) Law 1953 (may be repealed in about 5 years when potato and milk marketing schemes have been reviewed).
- Air Transport Permits (Jersey) Law 1998 (subject to review).

- Banking Business (Jersey) Law 1991 (under review).
- Borrowing (Control) (Jersey) Law 1947 (to be reviewed).
- Collective Investment Funds (Jersey) Law 1988 (felt to be unnecessarily bureaucratic but review planned for 2005).
- Company Securities (Insider Dealing) (Jersey) Law 1988 (to be repealed when market abuse provision in financial services legislation is amended to match latest EU developments).
- Fees (Miscellaneous Amendments and Validations) (Jersey) Law 1999 (a very short law which is to become redundant).
- Financial Services (Jersey) Law 1998 (constantly under review – present review to end in 2005, further amendments planned).
- Investors (Prevention of Fraud) (Jersey) Law 1967 (to be repealed once remaining Article incorporated into new financial services legislation).
- Registration of Business Names (Jersey) Law 1956 (This law is currently being re-written as a direct response to consultation).
- Licensing (Jersey) Law 1974 (Consideration should be given to a full review of the law).
- Gambling (Jersey) Law 1964 (gambling commission to be set up).

♦ **Employment and Social Security Committee:**

*Recommended for change:*

- Machinery and Woodworking Machines (Jersey) Regulations 1967 – review.
- Highly Flammable Liquids (Jersey) Regulations, 1979 – review.

*Due for change under current legislative programmes:*

- Employers' Liability (Compulsory Insurance) (Jersey) Law 1973.
- Employers' Liability (Compulsory Insurance) (General) (Jersey) Regulations 1973.

*(Note: since the review was finished these changes have been implemented)*

Plus:

Recommended that social security legislation be subject to a regulatory audit as part of the planned review which is to take place in 2005.

♦ **Environment and Public Services Committee:**

*Recommended for change:*

- Jersey Gas Company (Jersey) Law 1989 (re testing of gas provisions).

- Sea Fisheries (Jersey) Law 1994 (consideration being given to dropping the requirement for a SOS approval under Section 8– *as a result of a comment received*).
- Jersey Gas Company (Jersey) Law 1989 (certain Articles).
- Water (Jersey) Law 1972 (certain Articles).
- Telecommunications (Jersey) Law 2002 (certain Articles).
- Public Utilities Road Works (Jersey) Law 1963.
- Electricity (Jersey) Law 1937 (certain Articles).
- Loi (1914) sur la Voirie\*

\*N.B. Law drafting time requested to review this and the associated parts of other Utilities laws.

- Roads (Drainage) (Jersey) Law 1962 (In need of review).

*Due for change under current legislative programmes:*

- Public Health (Control of Building) (Jersey) Law 1956 (to be replaced by Planning and Building (Jersey) Law 2002).
- Island Planning Law 1964 (to be replaced by Planning and Building Law 2002).

♦ **Education, Sport and Culture Committee:**

*Recommended for change:*

- Public Library (Jersey) Regulations and Rules 2003 (bid in for 2006 Law Drafting Programme to develop legislation that reduces administrative burden on the States re management of library).
- Education (Jersey) Law 1999 – amendments to Article 3 of the Law to enable a change to the First Schedule, Part 1 (list of provided schools) via order.

*Due for change under current legislative programmes:*

- Education (Discretionary Grants) (Jersey) Order 2001 (in connection with changes re the future of Higher Education funding).
- Teachers' Superannuation (Jersey) Law – the Law is likely to be dissolved in the near future as negotiations to merge the Teachers Pension Scheme with the current States scheme are underway.

♦ **Finance and Economics Committee:**

*No proposals for change and, apart from Income tax law which is always under ongoing review,) no current policy reviews.*

♦ **Housing Committee:**

Department Comment – most of the below are consistent with the Migration Policy proposals but if not accepted by the States, the Department would wish to pursue anyway.

*Recommended for change:*

- Building Loans Law – abandon – leave lending to private sector.
- Rent Control Law – agreed Law needs to be updated but kept simple.
- Housing Law:
  - Property classifications to be simplified – all (a-k)
  - Presumption against Company purchase to be relaxed
  - Proposed control of inherited property to be abandoned
  - 1(1)(j) contract policy to be abandoned or modified
  - Increase classes of exemption for leasing transactions
  - 1(1)(k) price limits to be more flexible

*Due for change under current legislative programmes:*

- Residential Tenancies (Jersey) Law re security of tenure.
- Housing Association Law re operation of Housing Trusts.
- There are also amendments and revisions in the course of preparation in relation to inheritance; in-principle consents; first-time buyers; exempted transactions; lodging house registration.

♦ **Harbours and Airport Committee:**

**Harbours**

*Recommended for change:*

- Jersey Boat Registration under the Shipping (Jersey) Law 2002 and the Boats and Surf-Riding Regulations 1969 (repeal of annual re-registration of speed boats and replace with consolidated 5-yearly process for all craft).
- Boat and Surf-riding Regulations 1969 and Harbours (Administration) Regulations 1962 (To repeal the requirement for annual registration of surfboards and modernise, improve and relax the seasonal controls).
- Safety of Life at Sea (SOLAS) Implementing Chapter V Safety of Navigation (It is believed that Regulations 15-18, 20 and 27 do not need to apply to local craft operating in Jersey waters).
- Simplify Harbour security laws (more work needs to be done in this area but the proposal is that the Community Provisions (Ship and Port Facility – Security) (Jersey) Regulations 2004 and the Maritime Security (Jersey) Order 1996 should be consolidated).
- Consolidate fishing vessel registration and fishing license procedures (the present procedures are run separately by Jersey Harbours and by the Fisheries department. Complex vessel details have to be

provided to both departments. Where the same information is required by both departments this should be collected and recorded once, by Jersey Harbours on the occasion of fishing boat registration or re-registration)<sup>[22]</sup>’.

*Due for change under current legislative programmes:*

Due for repeal and replacement:

- Harbour and Light Dues (Jersey) Law 1947 and associated tariff.
- Pilotage (Jersey) Law 1988.
- Pilotage (General Provisions) (Jersey) Regulations 1988.
- Pilotage (Pensions) (Jersey) Regulations 1988 (*note: repeal only*).
- Athens Convention (Carriage of Passengers and Luggage by Sea).

## **Airport**

*Recommended for change:*

None.

*Due for change under current legislative programmes:*

New Civil Aviation Law.

## **◆ Health and Social Security Committee:**

*Recommended for change:*

The following will be amended to remove the obligation of the Committee to set fees/determine forms by Order – (i.e. the Committee will continue to charge fees but, as it already does with other services for which a fee is charged, will set the rate administratively rather than through an Order. Similarly the Committee will provide forms by Committee, not through an Order).

- Residential Homes (General Provisions) (Amendment No. ) (Jersey) Order 200
- Nursing Homes and Mental Nursing Homes (General Provisions) (Amendment No. ) (Jersey) Ord 200-.
- Ancillary Dental Workers (Registration) (Fees) (Jersey) Order 200-.
- Food and Drugs (Ice-Cream Stalls etc.) (Amendment No. ) (Jersey) Order 200
- Cremation (Fees) (Amendment No. ) (Jersey) Order 200
- Nursing Agencies (General Provisions) (Amendment No. ) (Jersey) Order 200
- Hospital Charges (Long Stay Patients) (Jersey) Law 1999.
- Termination of Pregnancy (Jersey) Law 1997: (fees and forms prescribed by Order under this Law were

amended Under Proposition P.15/2005 adopted by the States on 2nd March 2005).

◆ **Home Affairs Committee:**

**Customs and Immigration**

*Recommended for change:*

- Immigration (Hotel Records) (Jersey) Order 1999 – repeal – duplicates information gathered by Tourism Industry.
- Customs and Excise (Jersey) Law 1999: (amend so that Customs Officers need not swear oath before the Royal Court).

**Driver and Vehicle Standards**

*Recommended for change:*

- Motor Traffic (Jersey) Law 1935: transfer some responsibilities to Environment and Public Services.
- Motor Vehicle Races (Jersey) Law 1946: transfer responsibility to Environment and Public Services.

**Fire and Rescue Service:**

*Recommended for change:*

- It was felt that the Fire Service legislation could generally be updated and bids have been included in the 2006 Law Drafting programme.
- Petroleum (Jersey) Law 1984 – possibility of changing Regulations that are subordinate to the Law to Orders – changes to level of fees issued for retail licences could be done by Committee then.

◆ **Policy and Resources Committee:**

*Recommended for change:*

None.

*Due for change under current legislative programmes:*

- Civil Service Administration (Jersey) Law 1948 together with all legislation arising under the law Civil Service Administration (Jersey) Law 1948 together with all legislation arising under the Law.
- Emergency Powers and Planning (Jersey) Law 1990.

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[1] P.134/2004 – Proposition.

[2] The Change Team is a division of the Policy and Resources department. Its remit is to carry out a review of government processes in line with the “Better, Simpler, Cheaper” approach to government.

[3] See Appendix A of this Report.

[4] Namely Education, Sport and Culture; Harbours and Airport.

[5] Regulation and Undertakings deal with approximately 5,000 applications per annum. In 2004 the Planning Department recorded 2,200 planning applications and 1,200 building byelaw applications.

- [6] *Change Team Report p.3.*
- [7] *See paragraph (B)(a)(ii) and Appendix A of this Report.*
- [8] *which will replace the current Island Planning (Jersey) Law 1964 and the Public Health (Control of Building) (Jersey) Law 1956.*
- [9] *EPS Regulatory Reform Review form: Planning and Building Law 2002.*
- [10] *EDC Report p.9.*
- [11] *One particular reference was in the template to the Loi (1884) sur les Matières Explosives which the Home Affairs Committee Group described in its Report as “short and clear Law, but is over 100 years old, and is written in French, so is not accessible to all”.*
- [12] *Home Affairs Report p.29.*
- [13] *Home Affairs Report p.33.*
- [14] *Home Affairs Report p.29.*
- [15] *Regulation of Undertakings and Development Law: an alternative is likely to be proposed in the future – the law is encompassed in the Migration policy adopted by the States in July 2005.*
- [16] *See p.60 of this Report and Home Affairs Report p.61.*
- [17] *Change Champion Report p.3.*
- [18] *See Appendices A and B.*
- [19] *See Appendix B.*
- [20] *Economic Development Committee Report: “The States of Jersey have now agreed to set up a gambling commission which will require primary legislation to bring it into existence. The Commission will then undertake a full review of gambling controls which should update and modernise gambling regulation for some time to come”.*
- [21] *EDC Report p.9.*
- [22] *Harbours Report pp.5-7 and pp.3-4.*