

Jersey Hospitality Association

Following our recent telephone conversation concerning the above draft Law, I have discussed our attendance at the Scrutiny Panel Review on Monday 26th July at 2.30 p.m. As previously explained, it will not be possible for either myself or our President, Mr Robert Weston to attend.

However, we did make a submission in December 2003, the contents of which supported the serious concerns of our members and the Tourism Board in relation to the principle and operation of the new proposed Law. The submission particularly centred on the following issues, which we would like read out by the panel so that participants are fully aware of our concerns:

Concerns from the Hospitality Sector

We view the provisions of the draft new Law, with concern as it will undoubtedly have a detrimental effect on the Tourism Industry. These concerns are compounded by no prior consultation having taken place with the JHA, Jersey Tourism or the Jersey Tourism Board. We are particularly concerned that the draft Law documentation contains no report or other information to explain why the proposed new Law is required at all.

Under this proposed law all bore holes, private reservoirs and fresh water systems will have to be metered and the whole cost will be borne by the licence holder. Given that other costs are adversely affecting the industry, such as the huge increases in insurance premiums, questions arise as to how far further increases in operating costs could be borne by an industry, which is still suffering from the downturn in tourism expenditure over the last five years. In short, favourable economic circumstances are not there any more and the recent inflation figure of 4.8% (more than double that of our main competitors) can only be detrimental. Add that to proposed implementation of a 5% to 7.5% GST and the future looks far from bright if imposed.

There can be little doubt that the erosion of tourism industry profit margins over the last decade has been the primary cause of the reduction in total bed numbers from 25,925 in 1990 to around 14,000 today. Therefore, any additional expense or regulation could be the final straw for many JHA members already considering leaving the industry. They currently have to work with unacceptable levels of bureaucracy, legislation and regulation and the changes being proposed to our tax system will considerably damage our sector's competitiveness if implemented. Taxation proposals such as PAYE, VAT or Sales Tax, Benefits in Kind Tax and Vehicle Registration Duty will inevitably cause a complete re-think by our members on the merits of staying in business. If these proposals are coupled with additional operating expenses such as the costs being proposed under the Water Resources Law, it could force people over the brink.

For accommodation suppliers in particular, the Law will create difficulty especially during the summertime when the usage of water is considerable. There are about twenty registered tourism establishments not on mains water and many more who just use bore holes for the filling of swimming pools, garden watering etc. These accommodation suppliers rely on bore hole supplies. If they are to continue using that supply, they will bear the expense and additional administration that this proposed new Law would cause. At an uncertain time for the tourism industry, it is just not realistic for the States to impose this additional burden.

Our members have, over many years, spent vast sums of money in installing and maintaining bore hole systems. It would not now be correct to penalise them by imposing charges or unacceptable restrictions on their use. Our legal advisers initially confirm that under Jersey Law there is a clear and valid principle that the person who owns the land owns all that is above and all that is below. Despite suggestions from the Law Officers' Department that this is no longer applicable our legal advisers have been unable to identify any authority which supports the Law Officers' suggestion.

We believe that the proposal will infringe the human rights of our members. In particular we have been advised that it is a potential infringement of Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms. Clearly as a position of natural justice, it is inappropriate for Government to usurp privately owned resources without compensation. The compensation needed in order to justify the existence of this Law is estimated to be many millions of pounds given the ongoing liability that all existing bore hole users would be required to pay licence fees.

The principle behind the Law is clearly that it be self-financing. We cannot see that it will achieve self-financing if proper compensation is provided to those affected. As is common to so much of proposed or existing regulations in Jersey we are equally concerned as to the number of administrators that will be needed to enforce the Law. Only recently confirmation was received that there are now more civil servants employed than at any other time. The imposition of needless bureaucracy and regulation is fuelling these numbers at a time when the Island is desperately trying to balance its finances. If it is to be self-financing, no doubt the cost of the licences proposed will be significant, which reinforces our concerns outlined above in relation to the

current trading climate being experienced in the tourism industry.

Conclusions

1. The JHA confirms that, on behalf of our members, we strongly oppose the introduction of this new Law.
2. We will seek to ensure that our objections are vigorously represented should this draft be put before the States.
3. Hospitality is a very fragile industry, which can easily be damaged by ill-considered tinkering with its operations.
4. The industry is telling the States that it *cannot stand further cost or price increases*.
5. If the States continue with the imposition of such costs, the hospitality sector's competitive edge and ability to compete effectively with other destinations will be materially impaired and more tourism businesses will undoubtedly leave the industry.

I do hope that the above outlines our concerns and we look forward to receiving the outcome of the hearing.

Regards

Gerald Fletcher
Chief Executive