

# STATES OF JERSEY

## OFFICIAL REPORT

FRIDAY, 8th OCTOBER 2021

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[9:30]

**The Roll was called and the Deputy Greffier of the States led the Assembly in Prayer.**

## **PUBLIC BUSINESS**

### **1. Draft Electronic Communications (Amendment No. 2) (Jersey) Law 202- (P.81/2021)**

**The Greffier of the States (in the Chair):**

We resume the sitting this morning. Continuing the Order Paper, the next proposition is the Draft Electronic Communications (Amendment No. 2) (Jersey) Law lodged by the Minister for Economic Development, Tourism, Sport and Culture, P.81 and I ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Electronic Communications (Amendment No. 2) (Jersey) Law 202-. A law to enable the witnessing of signatures to be effected by electronic means; and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

**Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):**

Deputy Morel will be acting as *rapporteur* for this item, thank you.

#### **1.1 Deputy K.F. Morel of St. Lawrence (Assistant Minister for Economic Development, Tourism, Sport and Culture - *rapporteur*):**

These amendments to the Electronic Communications (Jersey) Law 2000 modernise the framework under which business is conducted digitally in Jersey. The amendments are required to enable businesses to take advantage of new technologies to reflect common business practices and to provide greater certainty to the law, while taking into consideration lessons learned from COVID-19 and the remote working that took place during that period. The Electronic Communications (Jersey) Law 2000 was designed to facilitate digital business and so these amendments are a continuation of that policy. The law has been in force for over 2 decades. In that time there have been rapid and significant developments to technology and user behaviour. Last year Government started to engage with a working group orchestrated by the Government of Jersey and Jersey Finance Limited to consider the Electronic Communications (Jersey) Law in light of these new technologies, increasingly common business practices and lessons learned from the accelerated move to remote working as a result of COVID-19. The working group also gave consideration to clarifying certain aspects of the Electronic Communications (Jersey) Law where the law could benefit from greater certainty. The suggestions of the working group were formulated into a consultation paper, with consultation responses being supported. Consultees included representatives from the legal and financial services industries, charities representing vulnerable individuals, the Law Society, the Greffe, the Viscount, and others. The suggested amendments of consultees were consistent with the working group perspective as well as policy intentions, including ensuring that business online can be conducted safely, while safeguarding vulnerable individuals. In brief, the amendments consist of the following: a long-term solution for remote witnessing of signatures as a result of COVID-19 measures were introduced, but these measures are temporary and restricted in their application. Certainty under the law is given that electronic signatures provided by another where they have authority to do so are valid. There is a need for greater clarity, that a signature seal at a station or notarisation is not to be denied legal effect, validity or enforceability only because it is in electronic form whether such a requirement is a result of statute or otherwise, and there will be greater clarity that the Electronic Communications (Jersey) Law applies both to documents sent to another person and also documents which are simply stored after execution.

**The Greffier of the States (in the Chair):**

Are the principles seconded? **[Seconded]**

**1.1.1 Deputy D. Johnson of St. Mary:**

Just to advise that the Scrutiny Panel had the benefit of a briefing on this law. We are satisfied that it is necessary to meet the business requirements of the Island and are therefore happy to endorse it. There is, however, one point that the Assistant Minister might clarify in his summing up, which relates to the signature of wills. The law makes no exemption or makes no special provision for wills. My understanding is that it is because there is further legislation in the probate or wills law or similar, which makes it a requirement that they are signed in person as is now the case. My understanding is that that particular legislation is being addressed but until it is the law in force pertaining to wills remains in force, but that when the new legislation comes into force they will be able to do it without the need to refer back to this particular new piece of legislation. I would be grateful if the Assistant Minister would clarify it in his summing up.

**1.1.2 Deputy R.J. Ward of St. Helier:**

It is just a little question around it says I think it is on page 7, but that is on the P.D.F. (portable document format) document, Article 9C: “This Article does not apply to the signature of a Minister required for the purpose of making Jersey subordinate legislation (within the meaning of the Legislation (Jersey) Law 2021).” Does that mean that a Minister cannot sign a Ministerial Order electronically or while they are off-Island, particularly for example if a Minister may spend some of their time living off-Island but signing Ministerial Orders electronically in that way? Just to understand what it may mean in terms of governance.

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

Following on from Deputy Johnson, one area of the COVID regulations and electronic contracts, et cetera, that has concerned me is the question of wills and the witnessing of them and to try to prevent people being coerced and so on. Will the Assistant Minister assure the Assembly that any measure relating to changes to provisions of wills will be brought back to the Assembly and not just done by order?

**1.1.4 Senator T.A. Vallois:**

I would like to ask the Assistant Minister about the requirement around the order and the caveats that might be expected, and whether there will be provision for guidance being laid out for understanding of businesses in a way that they apply such caveats and exemptions and whether he would be able to give us an example of what an exemption might look like that is not already being included in the amendments in this legislation that we are agreeing today?

**The Greffier of the States (in the Chair):**

Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles I will close the debate and call on Deputy Morel.

**1.1.5 Deputy K.F. Morel:**

Thank you, and I thank the speakers and their intelligent questions. I will start with the Deputy of St. Mary. As I understand it, he is entirely correct in his summary of the situation. Wills currently will not be covered by this law, primarily because of the Probate (Jersey) Law. At the moment the Probate (Jersey) Law means wills cannot be undertaken remotely or with electronic signatures, so it is the case that once this law comes into force wills will still need to be signed in person and in wet ink. Until any changes to the Probate (Jersey) Law come forward that will remain the case.

[9:45]

With regard to the question about the Probate (Jersey) Law and whether it is coming to the Assembly or not, from Deputy Higgins, because that is not part of my remit certainly I will have to check to

find out whether that comes to the Assembly or by order. I imagine it is coming to the Assembly because it is probate law and I cannot imagine that will be done by order, but I will endeavour to clarify the situation for him. Deputy Ward asked about Article 9C and Ministers. Yes, this Article is entirely focused on ensuring that Ministers have to be the people who give the permission for their signature to be used. Basically what this Article is saying is that the signing of a Ministerial Decision cannot be delegated to an officer by this way. The important thing here is to ensure that it is Ministers who sign Ministerial Decisions. So while a Minister can ask for their electronic signature to be attached, and then somebody else attach that signature, it has to be on the express authorisation of the Minister, so I think it is a really important safeguard. Senator Vallois's question about will provision, will guidance be provided, I believe that is the case but I will ensure that she is provided with a definite answer to that. I believe it is likely to be Jersey Finance who are likely to provide that information, particularly for finance businesses and Jersey business, and other businesses in the Island, but again I will have to get back to her to ensure that is the case. As far as exemptions are concerned, the main exemptions are wills and also these Ministerial Decisions. With that, I move the proposal.

**The Greffier of the States (in the Chair):**

Thank you very much. I think in a moment the Greffier will drop a link into the chat for a vote on the principles. The link is available, so I call on Members to cast their votes. Thank you very much. If all Members have had the opportunity to cast their votes I ask the Greffier to close the voting.

**Deputy L.B.E. Ash of St. Clement:**

I was a pour as well, and did not get in.

**The Greffier of the States (in the Chair):**

Well, I have closed the voting, Deputy Ash, but just for you I will make an exception on this occasion.

**Deputy L.B.E. Ash:**

Most kind, thank you.

**The Greffier of the States (in the Chair):**

The principles have been adopted.

<b>POUR: 44</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham				
Senator S.C Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				

Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Deputy of St. Mary, this proposition falls to your panel. Do you wish to call it in?

**The Deputy of St. Mary (Chair, Economic and International Affairs):**

No, we are happy with it and do not wish to call it in.

**The Greffier of the States (in the Chair):**

Thank you very much. Deputy Morel, how do you wish to deal with the Articles?

**1.2 Deputy K.F. Morel:**

*En bloc*, please.

**The Greffier of the States (in the Chair):**

Do you wish to speak to them or just to move them?

**Deputy K.F. Morel:**

I get a sense from the Assembly. I believe we can move straight to the vote, Sir.

**The Greffier of the States (in the Chair):**

Well, let us see if anyone wants to speak first. Are the Articles seconded? **[Seconded]** Does any Member wish to speak on the Articles? No Member wishes to speak on the Articles. We will move to a vote. I will take this as a standing vote, unless anybody here or in the chat calls for the appel. The appel has been called for so I will ask the Greffier to put a link into the chat. The link is there

so Members can cast their votes. This is on the Articles. If all Members have had the opportunity to cast their votes I will ask the Greffier to close the voting and the Articles have been adopted.

<b>POUR: 44</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham				
Senator S.C Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

How do you wish to deal with the matter in Third Reading, Deputy?

**Deputy K.F. Morel:**

With all respect, Sir, I would like to deal with it in the Third Reading.

**The Greffier of the States (in the Chair):**

Do you wish to propose it now for Third Reading?

**Deputy K.F. Morel:**

I would like to propose it now.

**The Greffier of the States (in the Chair):**

Do you wish to speak?

**Deputy K.F. Morel:**

I will briefly speak and thank Members ...

**The Greffier of the States (in the Chair):**

Can I just check that Third Reading is seconded? [**Seconded**] Thank you.

**1.3 Deputy K.F. Morel:**

I would like to thank Members for their support. I think one of the most important aspects of these amendments are that they provide business with clarity as to when they can and should or cannot accept electronic signatures. There was confusion before and particularly in the finance sector that was proving difficult, so this does change it. I also want to address Senator Vallois's question again. I did forget to say that lasting powers of attorney are also exempt from this, so it is wills, lasting powers of attorney, and the safeguard of Ministerial signatures, but with that I propose the Third Reading.

**The Greffier of the States (in the Chair):**

I should have got it seconded after that, but never mind. I think we will assume it is. Does any Member wish to speak on Third Reading? If no Member wishes to speak I will ask the Greffier to put a link to a vote on Third Reading into the chat. The link is available, so if Members could cast their votes, please. If all Members have had the opportunity of casting their votes I will ask the Greffier to close the voting. The draft law was adopted in Third Reading.

<b>POUR: 43</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham				
Senator S.C Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				



Connétable of St. John				
Connétable of St. Clement				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
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Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

## **2. Draft COVID-19 (Enabling Provisions) (Amendment No. 3) (Jersey) Law 202-(P.83/2021)**

### **The Greffier of the States (in the Chair):**

The next item of business is the Draft COVID-19 (Enabling Provisions) (Amendment No. 3) (Jersey) Law lodged by the Minister for Health and Social Services and I ask the Greffier to read the citation.

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

Draft COVID-19 (Enabling Provisions) (Amendment No. 3) (Jersey) Law 202-. A law to amend further the COVID-19 (Enabling Provisions) (Jersey) Law 2020. The States, subject to the sanction of her Most Excellent Majesty in Council, have adopted the following law.

### **2.1 Deputy R.J. Renouf of St. Ouen (The Minister for Health and Social Services):**

This law would, if adopted by the Assembly, extend the operation of the Enabling Provisions Law to 31st July 2022. As I am sure Members are aware this enabling law serves to underpin the whole suite of COVID regulations which we have put into place over the last 18 months. The law gives the Assembly the temporary authority from Her Majesty in Council to make those emergency regulations and the renewal of those emergency regulations will follow in the next proposition. The majority of

those regulations are, of course, no longer in force due to the fortunate position we are in at the moment but it is essential, I believe, that the legal tools to control COVID-19 are retained while we remain in a pandemic. This extension to the enabling law is intended to ensure that we retain the capacity to manage that legislative framework that enables us to take decisive action when it is needed but which also restricts Islanders' liberties as little as possible. We have agreed extensions to this law on 2 previous occasions during the pandemic, because of course it is only intended as an emergency temporary measure and it is not a permanent law. Members will notice that the planned extension date of 31st July next year is beyond the term of this Government. In practice, however, we would need to take a decision as to the expiry of the legislation well before that time, so I would consider that before the States prorogues, if that is the right word, enters into purdah, whatever term we are using next spring we will have decided whether we still need to maintain any of the COVID legislation for that continuing period, because it is the case at every extension we have asked this Assembly to consider the duration of the law and regulations. The July expiry date simply reflects that there is an unavoidable tail of procedure to go through any decision by this Assembly on the law before it can have legal effect. Members will know that I am proposing that the detailed regulations are extended to the end of April 2022. This date of 31st July 2022 is necessary because we need to leave sufficient time after April for the Privy Council to meet and consider the legislation and for it to be granted Royal Assent and return to the Island to be registered in the Royal Court. For safety we have allowed 3 months. I propose the principles.

**The Greffier of the States (in the Chair):**

Are the principles seconded? [**Seconded**] Thank you very much.

**2.1.1 Senator S.Y. Mézec:**

I wanted to speak early in this to hopefully establish this initial point, which is that I do not think that we are debating a minor matter. I think this is extremely serious and I think we ought to have had a much greater explanation from the Minister for Health and Social Services just now on why it is necessary, given where we are in the pandemic, to extend the enabling provisions as long as he is proposing, and to my knowledge there does not appear to have been a briefing of States Members to give us the confidence that what is a drastic departure from our usual constitutional process continues to be valid. I would make the point to Members that this is being proposed now in the early stages of October to be extended 6 months from now to a later date after that. We do not know right now whether that will be necessary. We do not know where we are going to be in February or March next year to know if this extension of the enabling provisions will be necessary, so I think there are 2 points to make on that. The first is do the Government know something that the rest of us do not in terms of their projections for what is likely to happen in the pandemic next, in terms of another wave, or something like that? Why can they not come back to the Assembly with this proposal to extend the enabling provisions in perhaps January next year if it is clear from that, once we have got through the start of winter, where the Island is going to be at that point?

[10:00]

If I can cast Members' minds back to the start of the pandemic last year, when we were meeting up at Fort Regent and the enabling provisions were first proposed, there is absolutely no doubt that they were necessary because at that point we did need to make decisions extremely quickly and we needed power to reside in the right places so that we could react as the pandemic developed, to make sure that we protected people. It was absolutely clear and obvious to anyone to see that that was absolutely necessary. When it was first put to us as a Council of Ministers, of which I was a member at the time, it was proposed in a more far-reaching version than came to the Assembly in that what was initially proposed to us was for these powers to be held for a significantly longer period of time, around about 2 years if I remember rightly, rather than short periods to be renewed as and when necessary, and there was not anything that I saw at that point that stipulated it was purely for COVID-

related issues. I objected at the time saying that that amounted essentially to a U.D.I. in that it completely took away the safeguard and the checks and balances that are provided by the Privy Council for an extended period of time. Then what came to the Assembly in the end was a version that did limit it to COVID provisions and that did it in a shorter period of time with the option for renewal, which was clearly a much more appropriate position to be in. We were able to stomach that because it was necessary for the pandemic, even though it represented a departure from our usual democratic process and concentrating power in hands that at that point did not have that power. Now we are asked at this point to extend it further, which I am more than happy to do if it is necessary and if it can be demonstrated to be necessary, but I am not happy to risk it becoming the new normal. I think we do have to return to our usual constitutional process at an appropriate time and right now with what the Minister has put to us in his opening speech he has not established whether that is necessary to do right now, on 8th October, when there is still a significant period of time to go of these powers being held as they are now without the safeguard of the Privy Council. There is still time to see how we do over the next few months, whether we have that fourth wave, whether we have a winter where everything goes wrong again, and then whether we need to convene at the start of next year to extend the powers then, if they turn out to be necessary. If they do not turn out to be necessary we should not do it. We should get used to going back to our normal procedures at some point. I want to say to the Minister that I would like him to withdraw this proposition today. I would then like him to convene a briefing for States Members to make the case for these, to be absolutely transparent with us about what advice they are receiving about what is likely to happen over the next few months with the pandemic. If he can demonstrate that it certainly is necessary to retain these powers for a longer period then I will have no problem authorising that, my party will have no problem authorising that, and I would hope the States would have no problem in authorising that. As I was uncomfortable at the outset of this in authorising departure from our constitutional process, today I am not happy to vote in favour of extending that further when a case has not yet been made for it, and I would prefer for this to come back at a later stage where the necessity of it can be demonstrated to be much clearer than it is now. I wonder if it is being proposed at this point out of convenience rather than necessity, and I do not think when it comes to something as serious as a departure from our usual constitutional process that this should be dealt with on the basis of convenience, but should be dealt with on the basis of necessity, and that case has not been made, but there is still plenty of time that the Minister and the Government can use to make that case. I ask the Minister to withdraw it at this point and come back to it once he has made the effort to demonstrate its necessity to States Members. He has got plenty of time to do that and we will not be obstructive in any way in supporting his efforts to do that. If he is not prepared to do that and withdraw the proposition then I would urge Members to vote against it now and to be ready to reconsider it in future if it proves necessary. Let us be clear, we all hope that it is not necessary. We all hope that we return to normal as soon as possible and can move on from this and return to how we normally pass laws in this Assembly with that important safeguard and the checks and balances that are provided by the Privy Council and this should not be seen as something that becomes the way that we normally make laws in Jersey. I hope the Minister will respond to those points.

**The Greffier of the States (in the Chair):**

Before I call the Constable of St. John, there is a question for the Attorney General from Deputy Ward.

**Deputy R.J. Ward:**

I think I may hold it back because it depends on how the rest of this goes. It was going to be a question about after this Parliament ends and goes into the election process and the cause and effect of these emergency powers during that period, but I think it may be better to ask that later if necessary because I may have a more structured question at that time. I will withdraw the question for the moment.

### **2.1.2 Connétable A. Jehan of St. John:**

We are told by the Minister that Members should support this proposition because it is essential that the tools to manage a pandemic are retained. This proposition is based on a false premise. This is not a case of either retaining legislative tools to manage a pandemic or not. This is a matter of executive convenience that the Minister wants this Assembly to rubber stamp. This is not how emergency powers should be exercised. The threat of a future emergency is not a good enough reason to justify the continued use of emergency powers, for if it was then surely we would always allow the Government to have emergency powers just in case. This Assembly approved the Enabling Provisions Law on 27th March 2020. That was just 17 days after the first reported case of COVID-19 in Jersey. This is despite it being a once in a century event, in respect of which we had no template or past experience to fall back on. The world is not the same place as it was in March 2020 and Jersey is no exception. We now possess a greater understanding of both the virus as well as the legal framework required in the event of future outbreaks or waves. It would not take the Minister 17 days to bring this back in the future, should an emergency present itself. The law-making process as presented in this proposition is being made as an administrative inconvenience to the Minister. The point is poorly made. We have a robust and mature law-making process to ensure that our laws are properly made and not simply rubber-stamped by this Assembly upon the whim of the Minister or his officers. As the Minister says, this proposition would seek to extend the Enabling Provisions (Jersey) Law beyond the general election and the lifespan of this Assembly. He now says we can remove the law before his proposed end date, so why? Why ask to extend to the end of July today? The Minister is seeking to place untold emergency powers with this proposition into the hands of an executive in respect of which we have no idea who it will be. That notion is shocking to me and is contrary to our values, I believe, which we hold dear. What could happen with these powers during purdah? This proposition is ill-considered. It is not good enough to extend emergency powers because it is administratively convenient to do so. This Assembly should be treated with greater respect and, more importantly, trusted by the Government to debate matters of emergency as and when they arrive. We read in our *J.E.P. (Jersey Evening Post)* only last week that Dr. Muscat is saying things are improving. At a recent meeting that I had with the Minister for Health and Social Services and his managing director they both acknowledged we are no longer in an emergency. We need to give people hope and confidence, whether employees, employers, Islanders of all ages. We can do this by removing the emergency status when the current term ends. Yes, we need to remain cautious, but we also need to get used to living with COVID. We keep reading that testing could be relaxed at the ports, so we are in a very different position to March 2020. I was disappointed earlier this week with the Chief Minister's reluctance to have a review of how COVID has been handled. We can always learn and we must learn to do things better and improve wherever we can. The Minister for Health and Social Services in the news recently in respect of assisted dying being debated in principle stated that he was opposed and said: "I fear there is too much trust being placed in what legislation can do." Yet, in respect of P.83 Deputy Renouf is asking Members to support it, just in case. Well, which one is it? Either legislation is a mechanism that is appropriate to use in order to create a reservoir of powers to hold in reserve, or it is not. If it is not appropriate, as the Deputy states, in relation to assisted dying then how can he, at the very same time, propose P.83 rather than simply bring the proposition should it be needed in the future? The 2 positions do not logically sit alongside each other. I echo Senator Mézec's request for the Minister to withdraw the proposition and, if he is unable to, then I would urge Members to vote against this proposition.

### **2.1.3 Connétable M.K. Jackson of St. Brelade:**

I, like previous speakers, do not agree that these regulations need to remain. I would refer to S.T.A.C. (Scientific and Technical Advisory Cell) who appear to be the body advising the Minister. I have been disappointed over the last year that States Members have not been privy to the minutes from the meetings of that body where these decisions have been made. It really has been unsatisfactory and we are distanced from the information the Minister for Health and Social Services has received and

therefore are unable to make up our minds as to whether the advice, which is I suspect often made as a knee-jerk reaction to world events, is possibly inappropriate for the Island. Secondly, I note that the P.83 suggests there are no financial implications. I would contend that there are significant financial implications and perhaps the Minister would care to outline how he arrives at the fact that there are not. The reality is that Islanders have got used to the pandemic and understand and can make their own decisions to mitigate against it. The Minister may not have noticed or not been included in the many emails sent by concerned people on the matter. I have seen a lot; we had representations outside in the Royal Square yesterday. These people are genuinely feeling that the continued application of these regulations is unnecessary. I cannot therefore continue to support the continued infringement of personal liberties and will not support this legislation and urge the Minister to consider seriously the proposals put by Senator Mézec in referring this bit of legislation back.

#### **2.1.4 Deputy M. Tadier of St. Brelade:**

I am heartened that there is a good cross-section of Members in the Assembly from different political persuasions who are worrying about this emergency power continuing and who are speaking against it and also will be voting against it. I know that we have all had to make some very difficult decisions over the last 18 months and I would hope that all of us in the Assembly walk that fine line between libertarianism and allowing state intervention where it seems justified. Depending where we are on the traditional political quadrant we will feel more comfortable or less comfortable with the provisions that have been passed up until now.

[10:15]

I think the key change that has happened is that we put our community, and it has been reflective of what is happening in communities throughout the world and throughout the west, through a great programme first of all of restricting civil liberties of saying: “Do not do this, do not do that, you are not allowed to do that.” If we go back to the beginning of the pandemic we were imprisoning people in their homes, effectively, saying they can only go out for 2 hours a day. That was even worse for the elderly and people in a care home setting where they were literally incarcerated and treated probably worse than prisoners at La Moye Prison who could at least, I imagine, go out into their courtyards. That situation, I do not need to remind Members, has existed a lot longer than it needed to, if indeed it was necessary in the first place, for those who were least mobile and least able but also the most vulnerable in our society. My point that I have always made is that you cannot have a perpetual state of emergency, otherwise it leads to a dictatorship and it erodes democracy. There have been examples of this in recent years throughout the world, often on the proviso of counterterrorism, whereby new powers have been brought in, stop and search powers, especially following what should be called 11/9 in the U.S. (United States). One cannot help feeling that when those powers become the norm something about our humanity fundamentally changes in our civil liberties and our relationship with the state. I presume that I am not the only one who has to have a certain amount of introspection when you go out and you wonder: “Why do I feel uncomfortable with ordinary interactions that in the past were just considered normal?” Even if we do accept that up until now all of this has been necessary, something has got to give, because we are not in the same situation we were. We told people: “Do this, do that, wash your hands, wear a mask. You are not allowed to go out and meet your friends, Christmas has been cancelled for some people.” It certainly was in my family, and when you go to the supermarket, do not touch things, do not pick things up but get a vaccine; it is your choice, get a vaccine, oh, by the way get another vaccine, double jabbed, if you want to be able to travel. Oh, let us get a third vaccine, oh, so you need a third vaccine now, do you? Just to be extra safe because you need 3 vaccines within the space of a year, just to guarantee that you are not going to get COVID and, do you know what, you can have a booster as well, so get one every 6 months. I would ask where does this all stop? I am not criticising the vaccine programme. Our civil service, our front line staff and our officers and no doubt even our Ministerial

colleagues and the Assembly have done a great job on this, but where does it end? I am not saying it is the same as the flu but if we tested for flu like we have tested for COVID, you know what? We would probably shut down the whole of society because you would realise that so many people have potentially got it. If we contact-traced everybody who had flu, imagine if instead of rolling out this programme and continuing the emergency powers we just started testing people for cancer, because cancer is a massive killer, yet people who cannot afford to go to the doctor routinely are being offered numerous P.C.R.(polymerase chain reaction) tests and they probably had more contact in the space of a few months with medical staff than they have had in their entire lives, because they cannot afford to go to see their own G.P. (general practitioner) because the state of our healthcare system. Now I do not want to take us off into too much of a tangent, but you see where I am going with this. We cannot on the one hand tell society that they need to do this, do that, and then when they comply say nothing has changed, we are still going to retain these emergency powers just in case we need to. I am sorry, that is not acceptable. There are a couple of issues directly I want to address with the proposition. I did have it up but I am going to have to do this from memory. The first paragraph in the Minister's proposal says that we want to keep these powers in place in order to restrict Islanders' liberties as little as possible. But that is not true at all. The whole point of the law is to have an emergency power which can, if the Minister wants to, restrict members of the public's rights and civil liberties as much as possible. If you look at the enabling law, I think it is paragraph 4, it gives a very wide remit for the Minister and the States by regulation to basically change any law they want with a couple of exceptions that relate, for example, to human rights law. It is not just that, we are also putting a massive burden on businesses in the private sector. Because who enforces all this? So when we put out a statement saying: "You must collect everybody's data for contact tracing", it is businesses who have to do that. When you say: "You must wear a mask in a shop" if that is what is going to happen. It is the poor staff often on minimum wage or below living wage who have to approach people and say: "By the way, you are not wearing a mask." Is that really their job? Do we want them to carry on having to do that potentially into the next 12 months? I know the Minister says: "This is just in case; it is just in case there is a resurgence of COVID." I say, no, this has to stop. We have to go back to normal. If it means living with COVID, which is what we have been told we have to do, then we have to do that. We cannot restrict our civil liberties and give Government unrestricted powers if they want to use it. I do ask the question: what happens if these powers need to be introduced during the purdah period when we are in election period and the States is not sitting? Somebody is going to have to make those decisions, those emergency powers could and might be used. For me, this is one step too far. I do not think it has been proven that this is proportional and it is a line in the sand, which I cannot support today.

#### **2.1.5 Deputy G.P. Southern of St. Helier:**

What I want to point out is that our democratic principles and practices are no mere plaything. I believe the Minister is treating them as exactly that, too lightly by far. The Connétable of St. John made a valid point when he said: "And also pragmatically we have had no assessment of how effective any of the measures that we took under emergency powers have been." I, for one, would certainly not want to be voting for a continuation of emergency powers until I have some sort of analysis, it need not be enormously massive, but we have 3 months, 4 months, in which we could analyse what worked and what did not. Whether we should consider seriously repeating some of those steps, which caused more harm in some cases than they did good. So I would want some sort of analysis and I would expect Members of this Assembly to want some analysis of how effective and how good the measures that we took were, so that we can repeat the good and eliminate the bad.

#### **2.1.6 Connétable K. Shenton-Stone of St. Martin:**

I cannot support this proposition. We have not been given and do not have adequate reasons to do this. As previous speakers have stated, this Assembly will not be here in July as it is at the moment, we will be a completely new body of people. We will have a new Assembly, a new Chief Minister

will be voted for on 5th July, but this order is in place until 22nd July. What provision is in place for the weeks when this Assembly is dissolved? Who will be in charge of these emergency powers? Surely we should know. I would have thought that was so important to know who would be having these powers while we are all in purdah. This is a really dangerous precedent to set. Are we becoming a nanny state? If we vote for this today we go way beyond what is reasonable and just. As previous speakers have said, if the Minister will not withdraw this legislation, which I really believe he should, and bring it back to us, and I am more than happy in January, if we find out that we do need this legislation, when we know what is happening, I am sure that the Assembly will vote it through. But, as previous speakers said, if the Minister will not withdraw this legislation, I really do implore Members to vote against this. Because we do not know who will be having these powers in July next year or April to July next year.

**The Greffier of the States (in the Chair):**

Deputy Pamplin, you have a question for the Attorney General?

**Deputy K.G. Pamplin of St. Saviour:**

I am wondering if the A.G. (Attorney General) can advise the Assembly at this stage and explain the legal ramifications if, as some Members have asked for, that this was rejected today, what the impact would be, and to cover the regulations. It is my understanding through regulation (a) and (s), some are suspended and some are extended. The regulations have expiry dates, if this is approved, through to the end of 30th April and if that was to remain, the enabling provision would remain until October. So if he could bring that clarity. Sorry, long questions, but explain why they are there because of the lack of some of the laws that we do not have in our very dated Public Health Law. I hope that all make sense for him.

**Mr. M.H. Temple Q.C., H.M. Attorney General:**

I apologise, I was out of my room at the start of that question. I apologise to Deputy Pamplin. Would he mind repeating the question please?

**Deputy K.G. Pamplin:**

Yes, of course. Could you advise the Assembly what would the ramifications be if we did not vote for this today? Secondly, the explanation between how ... because some of the regulations between (a) and (s) are suspended, some have been extended, the ramifications of that. Also the explanation of the fact that the regulations will be extended to April but, as far as I understand it, the emergency enabling provision would be extended to October; to explain that. Also to explain why the Public Health Law is not fit for purpose because that is why we have this in place, just so we have some understanding, and I guess of the time required if this was to go through, and suddenly something was needed. I hope that all makes sense.

**The Greffier of the States (in the Chair):**

Can I just clarify, Deputy Pamplin, we are talking about P.83, which extends the COVID-19 (Enabling Provisions) (Jersey) Law from 1st April 2022 to 1st August 2022? Are you cross-referencing to the next proposition, P.84?

**Deputy K.G. Pamplin:**

Yes, I was trying to do both.

**The Greffier of the States (in the Chair):**

We have to be quite clear what we are talking about here. We are only talking here about P.83, so if you have a question about the ramifications of P.83 for aspects of P.84 that is fine. But if the question is solely about P.84 that really has to wait until the next debate.

**Deputy K.G. Pamplin:**

Of course, yes, the ones impacting this proposition.

**The Attorney General:**

In terms of Deputy Pamplin's first question, that was about the procedural implications of what would happen if this proposition was not approved by the Assembly today. There is a procedural rule, I think, but it is more a matter for you, Sir, that if a proposition is not approved, then there is a period within which the proposition cannot be brought back on the same point to the Assembly. But that is more a matter for you. But in terms of what I can speak to, if this particular proposition was not approved, then the position would be that the general enabling law, which is the subject of this proposition, would continue in force until its current expiry date, which is I believe 31st March 2022. The various sets of regulations, which, as you pointed out, are the subject of the next proposition, would remain in force either in suspended or active form until 30th April 2022. So the ability to both make regulations amending the primary law, and the ability of the Minister to make orders pursuant to the regulations, such as to bring in the wearing of facemasks, that would continue until 30th April 2022. So I hope that assists as far as the implications of what would happen if this proposition were not approved today.

[10:30]

In terms of the Public Health Law, the Public Health Law, there is a general consensus that the current loi from 1934 is simply not fit for the purpose of dealing with this pandemic. I would add that there are considerable difficulties with the Emergency Powers Law, which is why we proceeded by way of the general enabling law to deal with COVID. The general enabling law places the ability to deal with the implications of the pandemic in the hands of the Assembly so that the Assembly can make democratic decisions or the democratically elected representatives of the people in the Assembly can make decisions about how to respond to the pandemic. Then pursuant to those decisions, regulations are passed, amending laws, and those regulations will give usually the Minister for Health and Social Services the ability to make ordering powers to bring in facemask wearing or, in extreme situations, a lockdown at short notice should the medical circumstances prevailing require that. The loi of 1934 is not fit for purpose to deal with the pandemic. I understand that the Government is working on proposals to bring a revised Public Health Law, but I am sure that will take considerable time and that is why we need to proceed by way of using the general enabling law, which is the subject of this proposition, and the regulations made pursuant to it, to deal with the pandemic. I hope that assists the Deputy with his questions.

**Deputy K.G. Pamplin:**

Yes, that is great, thank you.

**The Greffier of the States (in the Chair):**

We also have a question for the Attorney General from Deputy Ward.

**Deputy R.J. Ward:**

Can I ask the Attorney General, during the period of purdah, if this law was to be extended, who has the ultimate power to extend the regulations that we have? Is there the power also invested with this law to add new COVID regulations or regulations on the limitation of movement, et cetera, without any reference back to an Assembly that I suppose will not exist formally? Just for that mechanism, what it will look like. It will be very interesting to know.

**The Attorney General:**

Yes, the concept of purdah is a political concept rather than a legal one. So the powers that are granted ... as I say it is predominantly, I think, if not exclusively, the Minister for Health and Social



Services under the various regulations that have been passed to deal with COVID, they will continue to remain with him. If the circumstances warrant it, then there would not be a legal difficulty with him exercising those powers. The political consequences of doing so in purdah are an entirely different matter for Members. In terms of what would happen between the election date and the swearing in of a new Council of Ministers and new Chief Minister, that is governed by the Public Elections Law and the revised arrangements that the Assembly approved earlier this year. As to whether the Minister for Health and Social Services would remain in office between the election date and the period of swearing in a new Council of Ministers, my recollection is that I think he would but I would need to check that. Again, I hope that assists the Deputy with his question.

**Deputy R.J. Ward:**

I am wondering whether I may clarify one thing. When the Attorney General says: “If circumstances warrant changes to the law” is that a decision on those circumstances that are solely therefore at that stage with the Minister and another Minister accordingly due to the dissolving, to some extent, of the Assembly itself?

**The Attorney General:**

No, not quite. The Minister has order-making powers, which are for him to exercise. There are controls on those order-making powers, normally there has to be a necessity test or there is a requirement to consult with the chief medical officer. So there are controls on his powers. In terms of a change to the law, no, that is a power that remains with the Assembly. It is not the Minister’s power to change the law. He merely operates with the powers that have been granted to him under the sets of regulations, which the Assembly has passed. Again, I hope that deals with the Deputy’s question.

**The Greffier of the States (in the Chair):**

We also have a question from Deputy Young.

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

It seemed to me that this was straightforward, but clearly it is not in view of what has happened. But my memory says that we did use the enabling powers to do transitional arrangements, for example, on the Island Plan. Of course we have another one coming up later on the agenda today. So if we do not extend this, obviously that means one cannot pass new subordinate legislation, but what happens to the subordinate legislation that we have passed? Does it fall away and do we have to then replace it with something else in time, by 1st April?

**The Attorney General:**

No, the subordinate legislation in the form of regulations remains in place until 30th April. In terms of orders, those are periodically renewed by the Minister and the powers remain to continue to make those orders also until 30th April. It is what happens after that, which is the subject of this particular proposition. So in terms of transitional arrangements or order-making powers in relation to the Island Plan, those will continue until 30th April.

**Deputy J.H. Young:**

I assume from that then that, if we do not pass this, then we would have to look at that and try to deal with any issues that arise.

**The Greffier of the States (in the Chair):**

We also have a question from the Minister, the Deputy of St. Ouen.

**The Deputy of St. Ouen:**

If I may just ask for clarification on the last answer given to Deputy Young, it is my understanding that the regulations that we have passed under this enabling law expire imminently on 31st October, just in a few weeks. The next proposition, which I hope we will get around to debating, is the one that requests the extension to 30th April. So I think the Attorney General may have just said that the subordinate legislation is in force to 30th April. It was my understanding it is only in force to 31st October this year and therefore perhaps could I seek clarification on that?

**The Attorney General:**

I must say, I have not checked each specific expiry date for the regulations that are the subject of the next proposition. So, if I have given the wrong date for the particular set of subordinate legislation that is of concern to the Minister for the Environment, then I apologise for that. But I was simply concentrating on this proposition and not dealing with all the specific bits of regulations and subordinate legislation, which are the subject of the next proposition.

**2.1.7 Deputy J.M. Maçon of St. Saviour:**

I thank the A.G. for all of that information, it has been very helpful. I do not know where Members are. As far as I am concerned we are still in a pandemic, we are approaching winter months, we know that in the winter months there is going to be a spike of COVID or COVID-like diseases. So we still need to be sensible in steering our community through this period. As I recall, Members have supported when challenged all of the Government's measures throughout this period. That is testament to the reasonableness of our Minister for Health and Social Services who, I know, being at the C.A.M. (Competent Authority Ministers) meetings has been extremely cognisant of the issues around civil liberties and the wider impacts on the community, they bear heavily on his mind. It has been an extremely stressful situation and I praise the Minister again for holding it together through this period, who would want to be Minister for Health and Social Services during this time? He has done incredibly well. I feel that the Minister for Health and Social Services has been very reasonable through all of this. So this extension and the raft of legislation that the Minister is asking to bring, I am backing him to the hilt. I think he is being very reasonable. To extend this over the purdah period, because again we do not know what is going to happen, we do not know about mutations, it strikes me that those Members who were very, very critical of the Government at the start of this saying: "You have not been fast enough, you have not responded fast enough, you have not done this" want to remove that now until we are through this period. I am going to be backing and supporting the Minister for Health and Social Services, as I have done through this period. There is an expiry date and that will be during when the new Assembly is formed. As I understand it, the current Council of Ministers only falls away once the final Minister has been appointed under a new Chief Minister. So those are the individuals that are going to be in power until then and, while not perfect and while I am sure they have not got every decision right, they have done a very good job and we should, as we have done in this Assembly, support the Minister through this period.

**The Greffier of the States (in the Chair):**

A point of order, Deputy Tadier.

**Deputy M. Tadier:**

The point of order is that I would like to invoke a reference back if I may, and if you rule it in order and I will explain why if you grant me leave to do that.

**The Greffier of the States (in the Chair):**

For a reference back, if I turn to the appropriate Standing Order, you need to do so on the basis of requiring further information relating to the proposition or any ambiguity or inconsistency in information. So, yes, you can propose it, but you need to explain what it is you want before I will allow the proposition to be debated.

## **2.2 Draft COVID-19 (Enabling Provisions) (Amendment No. 3) (Jersey) Law 202-(P.83/2021) - reference back**

### **2.2.1 Deputy M. Tadier:**

I thought that would be the case. I just wanted to make sure there is no clause that a certain number of speakers need to have spoken. So there are several pieces of information, which I think are lacking, and which I would seek from the Minister. The first of which, and it is something that Deputy Maçon references, he says that we do not know whether there is going to be a new pandemic or a new mutation. I would like to see any projections or predictions and the intelligence from the Health Department.

[10:45]

Because they must have those predictions about scenarios and about what they think is going to happen in the winter months with the pandemic in the light of the fact that we have had an extensive vaccine programme that has been rolled out to most of the population. So that is the first point of information. The second point would be really to do with human rights. I notice in the proposition it says that no human rights notes are included in this proposition, as it raises no issues of compliance with the E.U. (European Union) Convention on Human Rights. I would like more information about how that short paragraph was arrived at, because it seems to me that there are overriding human rights issues in this, which may be proportionate of course, but they have not been justified, because there is a potential here for a whole raft of human rights and civil liberties being restricted further, which that paragraph does not do justice to. The third point, and I will leave it at those 3 points, is that I would like to see what consultation has been done with businesses about the implication for extending these powers further, given the fact that pubs, clubs, supermarkets, et cetera, are the ones who are likely to have to be enforcing these emergency powers if they are to be used when we extend them. So there are 3 tangible and clear areas that I would seek information on and that I would ask Members' support for the Minister to come back to the Assembly with if he wants us to grant an extension for these serious powers which he thinks are proportionate, and there is time to do that, I believe.

### **The Greffier of the States (in the Chair):**

So the 3 areas are: information or projections about the future course of COVID or an account of what the department thinks the position is on that at the moment; further information on the rationale for the human rights statement that has been provided; and information about the extent to which or the nature of consultation with business about the possible extension of powers arising from this piece of legislation. Just to be clear?

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

That is a good summary, thank you.

### **The Greffier of the States (in the Chair):**

I think that is allowable. Is the reference back seconded?

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

Can I ask whether I am allowed to amend the Member's version of what extra information he wants, to add to it the assessment of the effectiveness of the measures already taken, before we start on fresh ones?

### **The Greffier of the States (in the Chair):**

What normally happens, Deputy, is that during the debate Members who think there are other gaps can make that point and then it is really up to the department to take that on board. Because obviously if they did not, there would be a risk of a further reference back if they came back not having dealt

with it. So we prefer to operate in that way rather than to get into the business of amending the remit of a reference back, if that is okay. So if you could maybe make that point in a debate. Is the reference back seconded? [**Seconded**] Thank you. I have the Constable of St. Clement, do you wish to speak on the reference back? The main debate, all right.

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

I am pleased to be able to tell Members I will be able to accept a reference back because there is really nothing sinister about this. This is a largely procedural exercise, which Members have gone through and seemingly understood on 3 previous occasions; the occasion when we put this structure in place and on 2 renewals since. I am sorry if we have got to a point today where we have lost that understanding of exactly how we try to manage COVID. But I will try and help Members, because it is complex and I get confused, so please excuse me. We do not have the powers as a legislature, as Government, to respond to a pandemic situation. As the Attorney General has said, our existing Public Health Law dating from 1934 is not equipped, is not appropriate, does not have protections that the present legislation has. So what was determined at the beginning of the pandemic was that we needed this framework, which allowed us to put in place provisions, which would normally be put into a law. But our laws of course take time to draft, they need to be lodged, then there needs to be a debate, the proper democratic process, and after our debate it goes to the Privy Council, then it comes back to the Royal Court here for registration, and then it comes into force on an Appointed Day. We were facing a situation where we were advised that we might see hundreds of deaths and significant illness. We sought the permission of the Privy Council to take temporary powers to put in place emergency legislation. That was agreed by this Assembly, unanimously I think - or almost unanimously if my memory is incorrect - and the Privy Council agreed very rapidly that we would do so. So they put in place the enabling law, which enables us to make those sorts of provisions, which would normally go into law. But the enabling law does not contain the provisions itself. Those provisions come forward by way of regulation. Regulations have to be put before this Assembly and they always have been. So we may have sometimes convened at very short notice, but it was always for debate and it was always the case that this Assembly has approved the regulations, the detailed subordinate legislation, that was necessary for dealing with the pandemic. It has been necessary, I am afraid, to act very quickly sometimes in order to keep the Island and its population safe. Because without that structure we cannot test at the border. Without that structure, we cannot enforce isolation for positive cases, whether they are coming in through the border or whether we identify them within our community. Without that legislation, we cannot contact trace people and require their details to prevent the spread of infection. We cannot ask businesses simply to take the basic details of those who might attend their venues or places of entertainment and the like. We cannot require masks to be worn on public transport. So, if Members want to remove all of that, that is fine, but that will be the democratic choice, which we have always followed in addressing this pandemic. But do we really want to be in a position where we cannot enforce isolation of positive cases? As I was saying in answer to Deputy Gardiner's oral question, this is not yet endemic, so those who make the contrast with flu, we are not yet at that stage. Because there is an immunity in the population to flu, we have largely dealt with it and its effects in the main for frailer people. But we still have an unvaccinated population, principally our young people and some adults who have chosen or for some health reason cannot be vaccinated. We are still in a pandemic, although it is certainly not as severe as it has been. So that perhaps gives a broad overview of what we are trying to do. I just want to concentrate on some dates if I may. Because the regulations; that is the subordinate legislation, not this law, this is about the next proposition if we get to it. That is about the isolation requirements; that is about contact tracing, et cetera. There is not a great deal in force at the moment, most of it is suspended, but those are the 2 main provisions. All that subordinate legislation expires on a single date, it expires in about 3 weeks' time, it expires on 30th October. So, if those are not renewed, and it is the Assembly's wish to, we will not be able to ask positive cases to go into isolation. So I will be seeking a renewal of those but I can accept this reference back because this enabling law, which I am seeking

a renewal, is still in force after 30th October. The enabling law expires on 31st March next year and that is simply the overarching framework, which allows us as an Assembly to make the regulations. It is the framework given to us by the Privy Council to make those regulations. It is only temporary because Senator Mézec is right and he has referenced discussions within the Council of Ministers and he will remember that I supported him, and all Ministers supported him, because that is what came forward. We asked for that provision to be temporary. It is not a perpetual state of emergency that the Privy Council has said to this Assembly: “You can make your own laws.” So that framework is expiring on 31st March. In the next debate I will be asking Members to extend the regulations that have the effect, I have just gone through the measures we currently have in place, to extend those to 30th April 2022, 6 months. We have generally done 6 months in previous extensions. 30th April, that is not yet purdah, so there will be no question of a Minister, and it might be me, exercising powers outside of purdah unless that is decided, but it will not be today, it will be any future debate in the spring. We would have to decide how we might manage COVID over purdah if COVID was still a risk then. So, in that subsequent debate, I am asking for the extension of the regulations to 30th April. But I have just said the enabling law expires on 31st March, so I suppose I could have asked for the regulations to expire on that same date, in which case everything would grind to a halt on 31st March. But we have tried to be consistent here and keep a rolling framework. So the reason I brought today the request that the enabling law be extended is to allow this Assembly to extend the regulations to 30th April, because they could not be extended if we did not have the enabling law provisions in force at that time. I know it is complex and I am sorry if I have not conveyed that complexity to States Members. So the proposal in this proposition, P.83, is to extend the enabling law only for a further 3 months to 31st July 2022. If Members had wanted to debate it today, they need not have had any concern, because the enabling law itself gives no powers to Ministers, it just allows this Assembly to make regulations. The powers are not in this enabling law; the powers are in the regulations, which will expire on 30th April. I have said in my opening speech that we will need to address in the spring, obviously before purdah, what we need to do if COVID is still a risk at that time. That might be a more difficult debate because there will be a purdah period, but it is not the debate for today I suggest.

[11:00]

But, because of that timeline, we still have plenty of time before the present enabling law extension expires. So I will gladly accept a reference back with apologies if the reports or my speech did not adequately explain what we have done before. I do not want Members to be frightened by this. I do not want the impression to be given to the general public that, in an emergency situation, Government is taking drastic unwarranted powers, because it is really not. We have done this 6 months at a time. It is this Assembly that has made the subordinate legislation that gives powers, and this Assembly has often challenged and we have had those debates about Ministers’ decisions. Together, we have come through this and we have used this framework and it has worked well for us in an emergency situation. I do not think it is right to say we are yet out of that emergency situation. I am not the medic or the public health expert, but you know what Dr. Muscat would say if he was addressing us. So let us be cautious. Let us stick with the framework we have. I would ask Members to allow me to proceed to the next debate and give that extension of the regulations, which are going to expire in 3 weeks’ time, to the extent that we need them. Following a reference back, we will put in place some means of having this broad discussion of how it all works and, yes, projections, predictions, we have said that we are bringing out a winter strategy. The human rights implications, but I hope I have explained those in what I have just been saying. There are no financial implications of the law. There are financial implications of the regulations, the cost of managing COVID, but of the law it is just that framework. Yes, we will also talk about what consultation there is with businesses and the effect on business of managing COVID. I could reply at length to try to placate Members’ fears about perpetual states of emergency and where does it end, but I am conscious, and thank you for the

latitude, because I know this is only a reference-back debate, but I hope it has been helpful and I am willing to accept the reference back.

**The Greffier of the States (in the Chair):**

Indeed I have given wide latitude to the Minister because the Assembly probably wanted to hear what he had to say. But this is a reference-back debate and the Minister has accepted the reference back. I just remind Members of that. We normally call Members in order but the Attorney General has asked to speak and it is generally to the convenience of the Assembly to hear what he has to say urgently, so I will ask the Attorney General to speak next before continuing with the speakers list.

**The Attorney General:**

I simply wish to confirm what the Minister has said in terms of dates and why it is appropriate for him to accept the reference back on this proposition but why he wishes to proceed with the next proposition concerning the extension of regulations. Because in the interim of when the Minister asked his question to me about those regulations that are the subject of the next proposition, yes, I have checked the expiry dates of some of those regulations and I do see that they expire on 31st October. So I simply wished to confirm and supplement my previous answer to the question from the Minister for Health and Social Services. I hope that is of assistance to Members when considering both the acceptance of the reference back and the next proposition.

**2.2.3 Deputy K.F. Morel:**

I would like to thank the Minister for accepting the reference back. It is definitely the right thing to do. I just want to say that one of the reasons it is really important that we are seen to be extending emergency powers at the appropriate time - and I do not think this is the appropriate time except for perhaps some particular technical reasons that the Minister has talked about - is we know there are people in our Island who are incredibly suspicious about these emergency laws. I personally agreed fully with Deputy Maçon when he said about the confidence in the Minister for Health and Social Services. From the beginning of this, I have been very aware that we must not give the Government, the competent authorities, too much power, et cetera, that it is a dangerous thing we are doing. I have said this before in this Assembly, what I have been really impressed by with the Minister for Health and Social Services is that he has withdrawn or suspended regulations or amended them when he has seen that they are either not working in the way that is needed or that they are unnecessary now. That has given me great confidence in his decision-making with regard to regulations and their extension. But that confidence unfortunately is not shared by people in our population and I get the feeling that if there are people in our population who feel that the enabling law has been extended earlier than necessary, so making that decision has come earlier than is necessary, I fear that that message will be twisted into one of the Government's power-grab, et cetera. So it is really important that we do this in a timely manner in terms of at the right time and that means, in a sense, at the last possible moment. Because to do otherwise is going to feed that message about a Government power-grab and that is not one that the Island needs. Because we do have to try to remain as united as possible in this and I want to support the Minister for Health and Social Services in the extensions as and when they are needed. But I do think that because this does not need to be extended until March next year, this enabling law, I fear that, if we were to do it, then it would fuel those suspicions about power-grabs, et cetera. So I thank the Minister and I ask him to bring back the enabling law at a more appropriate time. I would suggest January, to me, looks like the most appropriate time to do that when we will have seen by that point how the winter has progressed. Because absolutely the winter is our next big concern and regulations do need to be in place at least until the spring for that reason. But it may be that, come winter, come January, we can see that we do not need these regulations in the same way and perhaps we will feel that we do not need to extend the enabling law. So, in pursuit of the unified Island on this particular matter, absolutely the Minister for Health and Social Services is doing the right thing in accepting the reference back.

#### **2.2.4 Senator S.Y. Mézec:**

I will not speak for too long. The case for the reference back has been made effectively and I am pleased that the Minister is accepting it. He said in his speech that he wanted to assure us that this was never anything sinister and I certainly believe the Minister when he says that. I do not doubt for a single moment that his intentions were good here. I do have to point out though that what was originally presented to us, in my view, did have sinister undertones. Originally presented as in what the Council of Ministers were originally presented, which was essentially a 2-year power-grab without appropriate limitations, which I at the time described as being effectively a U.D.I. To exploit a pandemic situation to make that sort of power-grab in my view, as it was proposed, was a sinister thing to have done. We therefore have to be vigilant moving forward because it is possible that those forces may re-emerge or may try to get what they initially proposed, which in my view would be entirely wrong and extremely undemocratic and dangerous. The Minister had said that he had approached this anticipating that it would be largely procedural and I want him to know that was the wrong thing to do. He should not have anticipated this debate being largely procedural. It is on an extremely important principle. When the principle is so important, it is right that we have the right detail and information at our disposal to know that we are making the right decision. If it transpires that there is a strong case for extending these powers in order to protect people at the next stages of the pandemic, which could be worse than we currently anticipate, then it will be right for that power to be there to protect people. But that power has to be used proportionately and there has to be a strong case in support of it, which up until now that case has not been presented to us, so I hope with this reference back the Minister will treat that seriously and come back to us with much more detail, as the proposer of the reference back has asked for. So I hope that Members have been persuaded by that case and will support this reference back.

#### **2.2.5 Deputy R.J. Ward:**

I would like to thank the Minister for the really sensible decision he has made today in terms of accepting the reference back. It is a very positive move. I want to point out a couple of things. First of all, this is not about personality. I do not agree with some of the things that were said earlier regards the personalities involved. The decision-making must be almost impossible at times and we I think all recognise that. Within that role, from whatever Minister, it must be difficult, and we get that. So there is a really important point to be made here about why clarity of the extension or not of this law is important because it gives validity to the decision-making process. A point made by Deputy Morel about the population of the Island needs to be brought with us with any decision-making in terms of extending powers. The way to do that is to come back at the end of the winter, when we have been through winter, because those powers are already there until the end of March. That is a very important point. The simplicity of this debate is exactly that. The powers exist to the end of March to do the things that we can decide on in this Assembly now. But it is then, when we have a much greater clarity of where we are in terms of this pandemic and the world and whether it has become endemic - that was something we talked about before - that will give greater strength to whatever we decide then because we can say to people: "We have delayed, we have not made rash decisions, we are now coming back to the situation" and there are reasons why we can either say we do not need to extend these powers or we do need to extend these powers. That I think is very important with any decision-making process around this. It has been a very difficult time and these are very difficult decisions in terms of civil liberties, we all know that. So I would say that when we say there is not a perpetual state of emergency that is good. It does not mean that the concerns that we had at the beginning of the pandemic to act quickly have gone. It means that we have greater clarity in the type of action that we can take and, dare I say, we have more sophistication in the way that we make decisions now because we have learned so much over the last 2 years. By moving this on and coming back to it later, that is what adds a quality to the decision-making. So thank you to the Minister for accepting the reference back and thank you to Deputy Tadier for bringing it.

### **2.2.6 Connétable A. Jehan of St. John:**

I also thank the Minister for accepting the reference back. Part of the proposal was around the lack of information. In terms of information missing, I would remind the Minister that again we see S.T.A.C. minutes 13 weeks behind. The last published S.T.A.C. minutes are 12th July. We were told this would improve with the change of chair but unfortunately it has not changed. Deputy Morel spoke about confidence and we have just heard Deputy Ward speaking about bringing people with us. If we publish the S.T.A.C. minutes in a much more timely manner, it will not only help to boost the confidence by sharing the information but will also improve the trust and bring people with us. I implore the Minister to get the S.T.A.C. minutes published in a more timely manner and thank him for accepting the reference back.

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

The Minister has agreed thankfully to come back with further information. Two questions remain: (1) what sort of timescale does he envisage to report back for the reference back; and (2) will he include in that assessment how well or badly things have gone in the previous iteration of these emergency powers?

### **The Greffier of the States (in the Chair):**

The Minister has already spoken but I am sure he will take those on board in his communications with Members on this.

[11:15]

### **2.2.8 Senator J.A.N. Le Fondré:**

I note the Minister for Health and Social Services has accepted the reference back. What I wanted to address, I am hearing comments from various speakers talking about a power-grab. Deputy Tadier said something along the lines of: “Even if we do accept that the legislation was necessary”, which was essentially casting doubt that the legislation was necessary. I would also like to address the comment made: “We will have greater certainty in January.” What I want to say, and other than what it would appear from those comments among certain Members in the Assembly, that feedback I get from many, many Islanders is that we are in about as best a place we could possibly be through an awful lot of very, very good and hard work, not only by Members of this Assembly, but by all of the teams that have come together to bring us to this position. Deputy Tadier seemed to be regretting that we had to ... I think his word was “cancel Christmas.” The point about all those times was information changes on this pandemic very, very quickly. What I will say, we all regretted the actions we had to take at that point but we did not see a surge after Christmas and that was important. Surges tended to translate into deaths without a vaccination programme in place. I did not speak to the members of the public in the Royal Square, whether it was yesterday or the more recent one, which were anti-vaccination, as far as I am aware. That is their perfect right. What I do regret is that the statistics are to date that if you are not vaccinated you have a far higher risk of ending up in hospital and therefore a far higher risk of death. We have seen that in the Island. What I want to very much address is people or Members are looking for certainty. All I can tell you that is certain is that we will not have certainty, we will not have certainty in January, we will not have certainty in February. From memory, we were told about the Delta variant, I think London closed its railway stations at a day’s notice, there was a rush to the railway stations to leave London just before Christmas. I think my dates are right, I have not gone back and checked. But it then turned out that Delta had been around for a number of months. The concern is that while we are in a very good place right as of today, winter is coming, winter and flu season tends to be ... well, anytime onwards, but particularly January, February, March, as I understand it. If, for example, there seems to be an expectation, because of a lower immunity, because everybody has been wearing masks and less interaction, that flu season could be harder this year, which is why we are very keen that everybody does take a flu



job that can. But the other unknown is that there is still a sizable part of this planet who have not even had their first jab. There are also unknown, and further data keeps emerging, about the overall duration of the efficacy of the vaccinations that we have, which is why we are talking about boosters. So the point I just want to make, and in response to some of the comments made by Members - it is addressing some of the comments made by Members during the reference back - it is about certainty. We will be unlikely to have the level of certainty that Members will want. All we do know is that whatever date we pick on, the overall enabling legislation that allows the regulations to be put in place and the Minister for Health and Social Services has laid out exactly the benefits or, depending on your viewpoint, otherwise of those regulations, the overall enabling law, which is what this is about, expires on 31st March. It is a 6-week lodging period on this. That means it is the middle of February and obviously the decision needs to be made before then to get it lodged in time. So the idea was to at least give some clarity as to where we were to then essentially place it into the hands of a future Assembly and hopefully by that point we will have a greater level of certainty. But the point I was making, a large proportion of this planet is not yet vaccinated. It does give scope for variants to emerge and it may well be that if a new variant emerges that is not affected by the vaccine that one would have to move swiftly again. We are not out of it. We are in a very good place. The western world, or certainly Europe and the U.K. (United Kingdom) are in a very good place. There are other parts of this planet that are not and again I do take issue with the comment, I think it was by Deputy Tadier, even if we have to accept whether this or not, the overall deaths last year in 2020 were less than previous years. Virtually if you look - and I do not like doing research by Google so this is very, very quick - I think the U.K. flu deaths in 2019 were around 1,200 and on 31st December 2020 just under 1,000 people died on that one day in the United Kingdom from a COVID-related death. I hope that brings home that the measures we have been taking have been serious, have been necessary and, in my view, we will continue to take those actions necessary to do hopefully as well as we have done to date about protecting lives. I really do not take kindly to the assertions or aspersions that that has not been our top priority.

### **2.2.9 The Connétable of St. Martin:**

I just wanted to publicly thank the Minister for Health and Social Services for accepting the reference back and allowing the Assembly and the public to have more clarity on this.

### **2.2.10 Deputy K.G. Pamplin**

To speak quickly, may I also add with the growing list of requests in the reference back that the Minister provides a full briefing now. I think it has been a long time since States Members gathered together to hear from his officers, policy officers, Dr. Muscat, because I think a lot of information has been spoken about in this debate. I think it is appropriate, ahead of the winds of change coming, that we have a full briefing now because I think it is essential. I will point out obviously that the Health Scrutiny Panel and other panels have been meeting for briefings every other week, which has proved helpful, but I would just add that to the requests because I concur with what the Chief Minister said but we are entering a time that will be anxious for everybody. We see there are 7 people in hospital currently with ...

### **The Greffier of the States (in the Chair):**

Sorry, Deputy. Chief Minister, I think your mic is still live.

### **Deputy J.A.N. Le Fondré:**

Sorry, Sir. I was muttering at the computer.

### **The Greffier of the States (in the Chair):**

That is okay. Deputy Pamplin, do you want to carry on?

### **Deputy K.G. Pamplin:**

No, that is fine. I am sure the Chief Minister was just simply agreeing with every word I was saying.

**Deputy J.A.N. Le Fondré:**

I was, Sir, thank you.

**Deputy K.G. Pamplin:**

Thank you.

**The Greffier of the States (in the Chair):**

I think if that mic could be muted, Chief Minister, that would be helpful.

**Deputy K.G. Pamplin:**

With that, I just add that to the request that we have a full briefing in support of this reference back.

**The Greffier of the States (in the Chair):**

Does any other Member wish to speak on the reference back? If no other Member wishes to speak on the reference back, I will call Deputy Tadier.

**2.2.11 Deputy M. Tadier:**

The Chief Minister is a skilled and experienced orator and statesman so he knows how to address points that I made in a previous debate that were not relevant to the reference back. What I will say is that I think he has been laying it on a bit thick. I started off my points in the reference back by thanking and congratulating all of our public sector and all of the front line staff, whether or not they work in the public sector, for their hard work and for keeping us safe during the pandemic and I have not said that I do not think that COVID was highly serious and that we needed a response to it. I think the Chief Minister may have misunderstood when I was talking really about some of the specific measures that have been taken that the legislation has allowed. It is only going to be with hindsight that we can judge these and it will not happen immediately. There are going to be massive consequences throughout the world including, I suspect, a whole raft of civil legal battles arising from COVID and the restrictions that have been put on people and the restrictions of civil liberties because of that. So we will not know this for some amount of years and what I have simply said is that also we will not know the harm/benefit analysis and some of the unintended consequences of the restrictions that have been put on people. Let us bring this back to what it is really about. It is about fundamentally humans only have a certain amount of time on this earth. If you are lucky it is going to be about 80 years; for some people it is much less. I fundamentally believe that people have the right to go about their lives peacefully and to pursue happiness and to enjoy themselves where that does not encroach on other people. Of course, as the States we try and keep people safe and we should take that fine line very carefully. But the point, as I have made, has to be that we are now in a very different scenario than we were 18 months ago when we were asked to pass these emergency powers. So for the Minister to say simply that: "You have passed these powers before. I am only just asking you to pass them again so we can keep people safe" is a completely different ask without the information that I have sought and which other Members have also asked for, including other information which the Minister has agreed to provide. While I do thank the Minister for accepting the reference back, I also think it is wise of him to do that rather than risking this being kicked out today. There have been a number of voices, not just my own, who have raised serious concerns about the pathway forward. I would simply add that I want to get back to a position of normal life because at the moment there is some kind of metaphorical sword of Damocles over people's heads where people do not know. The Minister talked about not having certainty but we often hear people from the Chief Minister's political persuasion saying that businesses need certainty but also people need certainty and they need stability in life. When you do not know whether or not you are going to be able to see a loved one in a different country because all of a sudden the travel regulations may change or the borders may close or certain individuals may not be able to travel for certain reasons, then that

is not allowing people to get on with their ordinary enjoyment of everyday life. That is why we have to take these powers very seriously, not simply rubberstamp them, and to ask for the information that I have sought. I will leave that there because I think hopefully most Members will support the reference back. I will reserve my position, of course, for when the information does come back as to whether I feel like I can support what the Minister is proposing at that time.

**The Greffier of the States (in the Chair):**

We now come to a vote on the reference back and I will ask the Greffier to put a link into the chat. The link is available for votes on the reference back and I ask Members to cast their votes. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting and the reference back vote.

<b>POUR: 41</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 1</b>
Senator L.J. Farnham		Connétable of St. Clement		Deputy L.B.E. Ash (C)
Senator S.C Ferguson		Deputy J.H. Young (B)		
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				

Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

So the proposition has been referred back to the Minister accordingly.

**The Deputy Greffier of the States:**

Those voting contre: Deputy Young and the Connétable of St. Clement, and Deputy Ash abstained.

**3. Draft COVID-19 (Amendments - Further Extensions) (Jersey) Regulations 202-(P.84/2021)**

**The Greffier of the States (in the Chair):**

The next proposition is the Draft COVID-19 (Amendments - Further Extensions) (Jersey) Regulations 202-, P.84/2021, lodged by the Minister for Health and Social Services. I ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

The States make these Regulations under Article 2 of the COVID-19 (Enabling Provisions) (Jersey) Law 2020.

[11:30]

**3.1 The Deputy of St. Ouen (The Minister for Health and Social Services):**

These are the regulations that the Assembly has made, the subordinate legislation, which are the ways in which we have managed and controlled the spread of COVID in our Island. What this debate is about is whether this Assembly wishes to extend the emergency legislation, the regulations, for a limited period. So the timeframe to this is that we have the enabling law and the emergency regulations passed in March 2020, those regulations to expire on 30th September 2020. We were still not out of the pandemic so it was extended by the Assembly for a further 7 months that time to expire on 30th April this year, but we extended again for a further 6 months to expire on 31st October, that imminent date. So today I am asking for a third extension for a period of 6 months to expire on 30th April 2022. Since we last had an extension debate we have passed one further set of regulations which provides for sittings of the Electoral College to take place virtually. Otherwise all the other regulations I am asking for an extension have been extended previously and, of course, passed by this Assembly. But the vast majority of those regulations are either suspended by Ministerial Order or they require orders to be made to have any effect. This is where the distinction comes in between the situation right at the beginning of the pandemic and the situation we are in now. Right at the beginning many of these regulations were in operation, the most drastic being the lockdown. Now we have very few. What we do have, the main ones, are screening assessment and isolation regulations, which allows us to conduct tests at the borders and underpins the safer travel policy, and in the workplace restrictions regulations that provides for contact details to be given at certain venues and the wearing of masks on public transport. Really I think those are the principal areas in which our life is at the moment affected. I wish to remind Members that before any powers are revived under regulations there are a number of requirements. The first is that a Minister - and, yes, it is usually the Minister for Health and Social Services - must be satisfied that any order is necessary and proportionate, having regard to the foreseeable risk of infection. To that end I, of course, take advice from our medical experts, including Dr. Muscat. That is indeed the second requirement, that I must take advice from the medical officer of health. The third requirement is I must consult with the Council of Ministers. All that has always happened whenever any order has been made under these

regulations. So, to turn to the proposition, as in previous extensions this proposition gives an overview of all the emergency subordinate legislation this Assembly has passed. We could have brought forward dozens of individual regulations asking for an extension of each and every regulation, but we have done this in one proposition rather than in a piecemeal fashion. The main objective is to ensure that all these disparate pieces of legislation are treated in a consistent manner with powers relinquished to the greatest possible degree where it is safe to do so, because we have no wish and have no intention to restrain or to retain restrictions on personal liberty for any longer than necessary. We are now moving into a phase, as Members have said, where COVID must become a risk to live with rather than a threat that requires the suspension of everyday life. I absolutely agree with that but, in my view, it still requires some limited degree of control to prevent the spread of infection and it must have the flexibility to allow Government to respond to any outbreak that we may see and to be able to contact trace and try to control the outbreak and prevent further spread and harm to the community. We know that winter could be a time of greatest danger because people gather in indoors, it is a party season, people perhaps do not ventilate their environments as they would in the summer. We know as well that new COVID variants can emerge from abroad and enter the Island, perhaps even before their characteristics can be fully studied. So we need to retain the flexibility to respond to that but at the same time we are constantly monitoring whether we still need the controls that are presently in place and where the advice is that we no longer need such then the order is made that they are suspended. Most of this legislation is suspended but we are simply asking for the renewal of the ability to bring it back should circumstances require. So, as I said, this would extend the lifetime of all the legislation listed for another 6 months to 30th April next year and I hope it will gain the support of Members. Thank you. I propose the principles.

**The Greffier of the States (in the Chair):**

Are the principles seconded? [**Seconded**] Before we start the debate, Deputy Tadier, you have a question to the Attorney General.

**Deputy M. Tadier:**

Yes, I did. I think I am going to leave that and maybe just ask if I can speak, because I think the Minister has probably addressed this. Is that okay or is anyone else before me?

**The Greffier of the States (in the Chair):**

Yes. Generally, if people want to ask a question of the Attorney General it is good if they have a question for the Attorney General rather than not but, Deputy Tadier, if you wish to speak that is fine.

**3.1.1 Deputy M. Tadier:**

Sorry, I did have a question but I think I do not need to ask that now. From what I heard from the Minister, there is no difference in this proposition to the last one in the sense that exactly the same comments that I would have made earlier apply to this proposition. I take on board that the Minister is saying that he does not want to restrict people's civil liberties but by passing this today this would allow him to do exactly that. As I have said, I think all of the comments I made on the last piece that we passed or referred back apply to this. I would seek exactly the same information on this proposition that I asked for in the last one because, including the human rights implications for this, are exactly the same as in the last proposition and their absence. So I think just for logic, as well as because it is important, I need to refer this back as well, please.

**The Greffier of the States (in the Chair):**

Well, Deputy, I am not sure you can because Standing Order 83(2) says: "The presiding officer shall not allow a proposal that a proposition be referred back if the effect would be to prevent the debate on the proposition resuming at a future meeting." Now this proposition requires things to happen, extends their lives from the end of this month, and the next meeting of the Assembly is next month,

so I think that means you cannot ask for a reference back in those circumstances because of the time implications of the current proposition.

### **Deputy M. Tadier**

If I can just add then I will be voting against this, I think I had made all my comments in the previous speech and I notice other Members have raised similar concerns, so for that reason I will be voting against this proposition unless I hear something that changes my mind. That is my position.

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

While I feel the States made the right decision on the previous proposition, I am not so sure that we should not approve these measures at the moment. What we are going to have to have before the next States sitting is a briefing from the Minister for Health and Social Services to go through all the concerns that Members have. If Members feel that it was not satisfactory then we are quite capable of bringing a proposition to cancel anything that we approve today. I think that we should bear in mind we are still in a pandemic, things could happen over the next 3 or 4 weeks before the next States sitting, who knows? The point is I do not think we should be that reckless just to cast them all away without having the briefings that we have been promised and can make an informed decision. I would urge Members on this particular one, let us approve it ... I am not happy about these things either going on for ever but at the same time let us have our briefings and if we feel they are not reasonable then we can bring propositions to change how we go forward.

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

Briefly, yet another reason ... there is a reference back ruled out, not to be debated, rightly or wrongly, is another reason why we should be meeting more often than once every 3 weeks because we do not have a meeting until 4 weeks' time. Absolute nonsense. No way to run an Island.

### **3.1.4 The Deputy of St. Mary:**

I do see a distinction between this proposition and the previous one because unless this one is carried, if not this time, on the next sitting we will be out of time. The point I do make is whenever that debate takes places will the Minister confirm or give some assurance or undertaking that before making orders he will, as on previous occasions, do his utmost to consult not only Scrutiny but with the Assembly. I seem to recall that certainly in respect of safer travel policy there was one proposition passed which required an order to first come to the Assembly. Would he comment on giving such matters favourable consideration in the next phase, as it were?

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

I will be voting to support this proposition. We need to continue with the provisions we have, I just was not happy with going as far as July with the previous debate. I would, however, repeat my request for the publishing of S.T.A.C. minutes. I know the Minister was unable to answer my point in the previous debate but I hope he will address that in his summing up.

### **3.1.6 Deputy R.J. Ward:**

I did see a distinction between this P.84 and P.83. P.83 was a much greater principle of the way in which we are enabling Government to pass laws in general. These are specifics that have been in place, many of them suspended, some extended in terms of mitigation factors that we are putting in place now while we are still in a pandemic. I think that is very important. I will say that many of these are suspended and I think this is the right time in the principles to ask this question rather than the regulations which are more specific on each part. I would say to the Minister, those that remain suspended - and there are many that remain suspended and I would agree with that - what is the mechanism that the Minister sees as - I do not even know if this is a word - unsuspending those regulations and does that come back to the Assembly because unfortunately we get to the point raised by my colleague Deputy Southern about 3-week sittings which, in real terms, is 4 weeks before the

next sitting because of half term, I think it is. There is not another sitting in October, it is in November, which we need to be really aware of when we have these ... which are seen as emergency regulations. We are being asked to extend them further, many of which are extending the suspension of regulations, but also some of which are being applied slightly differently now, such as - and I do not know if I need to speak to this in the regulations so stop me if I do, I will absolutely accept that the social distancing and the gatherings to limit the spread of COVID is extended to 30th April.

[11:45]

I would say I am just wondering whether that fits with where we are currently in terms of the way in which we are behaving across the Island, because I am not seeing distancing, et cetera, et cetera, going on. If we are going to extend something that is not being applied I would like to know where that fits in because we are getting a little confused again. Other than that, I think it is an important point to see this as separate from the previous set of regulations of P.83 that we were looking at.

### **The Greffier of the States (in the Chair):**

Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles I close the debate and I ask the Minister to respond.

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

I thank Members for their contributions and have noted them all down. Deputy Tadier wants to vote against this because he believes regulations restrict civil liberties, to which I would say, well, does not any law or regulation we pass in this Assembly contain some restrictions. It is a question of proportionality. Does the Deputy really think that 18 months ago it would have been safe not to impose any restrictions on the grounds of civil liberties? What about the question of people dying because we would have chosen to put in place absolutely no controls? It is a case of what is proportionate. We do not know exactly what the next 6 months will bring. What this proposition is asking is that we have the tools to be able to respond to any surprises or emergencies that arise in the next 6 months. I hope the Deputy would understand that and allow that to proceed to keep our Island safe and not to take risks. Deputy Higgins has asked for a briefing from us. I will arrange all that is required by the reference back. Members have been receiving emails throughout the summer recess with a lot of detail in. I have been meeting with the Scrutiny Panels also and we have said that we are going to have a briefing on our winter strategy, which we are discussing this afternoon if we can get there, as Ministers and then we will put it before Members in a briefing. We will cover all those points that have been asked today. The Deputy of St. Mary asked what happens before making the orders. I think I covered that in my speech that I have to be satisfied it is necessary and proportionate as I must take advice from the medical officer of health and the matter has to go before the Council of Ministers for consultation. In addition, I think it is under the workplace restriction regulations that there is a specific requirement, if possible ... I think it is in case there was an emergency and I could not reach the chair of the Health and Social Security Scrutiny Panel I would be able to make the order but I think it says where possible I must consult with the Scrutiny chair and panel. The Deputy of St. Mary also asked would I consult with the Assembly before making the order. I think if the Assembly wants a debate before an order is made, perhaps it should not give me an order-making power. The order-making powers are really there for emergency situations. The need becomes apparent, does it not? I do not make orders in some vacuum. If there is an emergency that is building up within the Island, we are all talking about it, I am receiving loads of emails, we are arranging briefings and we have had meetings of this Assembly to discuss policy issues and responses that we have all wanted to give and had different ideas. So this Assembly, I believe, has been heavily engaged in our COVID response. Far more engaged than I think the House of Commons has been and some other Assemblies around the world. To the Constable of St. John on the S.T.A.C. minutes, I certainly will chase. I will just say that S.T.A.C. have not been meeting weekly as they used to because, quite frankly, we are in a situation where we have some stability at the moment and S.T.A.C. have not

needed to meet each week. There are some minutes outstanding, it appears, and I will chase them. I will always do my best to ensure that they are available. Deputy Ward asked what was the mechanism to bring orders into force. I think I have just explained that. Specifically about the social distancing and gathering regulations, they are not in force at the moment. They were suspended but it is a regulation that I think we should keep in reserve should we need to, say, over winter time we are in a position where we need to ask people to keep a metre or 2 metres apart in queues and the like or we ask people not to gather together in large parties. I sincerely hope we do not get to that position but to do it at the moment would be entirely disproportionate and there is no suggestion that we now restrict gatherings or enforce social distancing. What is in force at the moment is really very limited and I think the Island has come to understand and is operating under these COVID restrictions well and I think are pleased that we have them, to the extent that we still have some control over the border that we are able to test, trace and isolate positive cases. I think that is important and the community still understands. I hope that has answered queries and I would hope to gain the support of the Assembly. Thank you very much.

**The Greffier of the States (in the Chair):**

Thank you very much. I ask the Greffier to put a link in the chat channel for the vote on the principles. The link is available. I ask Members to cast their votes. If all Members have had the opportunity to cast their votes, I will ask the Greffier to close the voting. The principles have been adopted.

<b>POUR: 43</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 1</b>
Senator L.J. Farnham		Senator K.L. Moore		Deputy M. Tadier (B)
Senator S.C Ferguson		Connétable of St. Brelade		
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				



Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

**The Deputy Greffier of the States:**

Those contre: the Connétable of St. Brelade and Senator Moore. Deputy Tadier abstained.

**The Greffier of the States (in the Chair):**

Deputy Le Hegarat, this piece of legislation falls to your panel, do you wish to call it in?

**Deputy M.R. Le Hegarat of St. Helier (Chair, Health and Social Security Scrutiny Panel):**

No, thank you.

**The Greffier of the States (in the Chair):**

Minister, when we come to the regulations you have an amendment, would you like to take the regulations as amended by your own amendments?

**The Deputy of St. Ouen:**

Yes, Sir, if I may.

**The Greffier of the States (in the Chair):**

Thank you, Minister. Is there any objection to that course of action? I do not detect any objection therefore they can be taken as amended. How do you wish to proceed with them?

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

If I may I would like to propose the regulations *en bloc* and try and answer any individual questions from Members if they have any.

**The Greffier of the States (in the Chair):**

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

**3.2.1 Deputy R.J. Ward:**

I have a few questions with regard to the regulations simply because of where we are now with ... it was what I alluded to when I talked on the principles. A number have been suspended and a number have been extended and I just want to understand to some extent what that means. I start with one that has been suspended, regulation 8 in terms of ... sorry, let me get the document up so I can read the actual words. Regulation 8 has been suspended, which is the regulation of care. I just want to check that that means that we are going back to the normal system of inspection of care homes, with

the Care Commission, et cetera. Because that is suspended we would not ... again, it is at what point that may become in place again because suspension does not mean removal, it means it is possible in the future. I understand that depends on the pandemic but that was one that I personally had real trouble with. I think I may have voted against that before in terms of care homes. In terms of those that have been extended, in particular - I have just written a few things down here - the safe distancing. It says it is extended but independent of offences in force. Does that mean that it is just, if you like, semi-suspended in the background? This is what I do not quite get about some of this. I would just like some clarity. The safe distancing is being extended but we are not imposing a 2-metre distancing any more within our society, not that I am seeing. What does that mean? It is also about the restrictive movement under regulation 5 has been extended but it is not in force. I can sort of understand that that is separate from enforcing to have the regulation in background, however I just do not understand how those 2 things fit together because it gives it a lack of clarity. Should we be in a position where that safe distance one effectively is being suspended but not in this current amendment. There is also number 3 - I am just trying to do this in order - about the courts. I see that that provision is extended but I will note that the public gallery is open in this Assembly so I wonder whether it is necessary to extend the court's regulations where we are now. Workplace restrictions, number 5, are extended. The capacity to make workplace restrictions, and I think I might be slightly answering my own question and it might help the Minister. If I am, just say yes, that is exactly what it means and that is fine. This is genuinely about clarity. The workplace restriction order is in place that requires businesses to close to public or operate in certain ways. Is that commonly being applied and how is that being applied because we are not seeing a lot of restrictions in shops and in businesses and so on, but I have had people speak to me in a barbers, for example, saying that were visited by the - their words not mine - COVID police who were quite harsh with them. What we do not want is an inconsistency. We want to make sure that we understand what we are voting for today and what that is going to look like. Similar with construction work, number 6. Number 7, which are COVID gatherings, the restriction in size, there are large gatherings, we had them in the Royal Square, a fabulous corn riots event, where I will add there were some fantastic music as well on some days in particular. There were many people there and ... what I am asking the Minister is to just give some clarity in the way us extending these today are fitting into the actual practicality of what we are seeing day to day, because in my mind it is not fitting. If you can say: "Well, look, what we need to do is extend these so they are in the background in case" then I sort of get that and I support that but we do need some clarity about how we are going. It is rather long but I will try and do it all in one go and I think it is important if we are going to vote on something like this.

[12:00]

Number 9 on statutory nuisance, events of such size and duration and held in such circumstances as to create a nuisance I would have thought this was general law rather than needing it for COVID law, particularly in the position we are in now. I do not understand how that one ... I do not know if I can vote for that one to be quite frank but you are taking them *en bloc* so it does create a problem. Other than that, number 10 is fine, the civil partnerships remain partly suspended, amendments, effective treatment of civil partnership. I think my panel has looked at that. I am not entirely sure why that is necessary but partly suspended, if you could explain that that would be great. The final one, I am losing my flow a little bit here, it is always difficult when you talk about regulations, is number 19, which is Unlawful Public Entertainment (Jersey). I think that is more relevant to the corn riots, for example, and events that are going on around the Island, which is great. They are in the open air, I can understand why they are accessible. That was time limited by my panel actually. I remember the amendment now, looking back to P.103. This will be time limited again until April 2022. Again, when we are extending these, can you explain the link between the enforcement of them and how that is going to happen because we are going to extend the ability to enforce something and it is not being enforced. To me that seems to be a suspension rather than an extension of that power. I may

have read it wrong but if you could explain it. I apologise to the Minister if that does not make any sense. If it does, then well done to the Minister.

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

I would just like the Minister to clarify on 14, whether in fact the Office of the Superintendent Registrar is open to the public. It seems to me that the ability of the public to examine the registers is still restricted and perhaps he could clarify if that is the current situation.

### **The Greffier of the States (in the Chair):**

Does any other Member wish to speak on the regulations? If no other Member wishes to speak, I will close the debate and call on the Minister.

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

I will do the best I can to answer both Members. What is meant by extension is asking this Assembly to allow the powers contained in these regulations to continue for a further period of 6 months. What is meant by suspension is the exercise of those powers given by this Assembly to a few different Ministers but, yes, in the main myself as Minister for the Health and Social Services. I think Deputy Ward answered his own question and I have written down the words he said: "Extend so they are in the background in case we need them." That is precisely the position. They will exist in the background for a further 6 months in case we need them. They are on our statute books for 6 months. But they are not in force because the Assembly has said in the regulation that to come into force the Minister must make an order where it is proportionate to do so, and he follows all those safeguards I mentioned, and where it ceases to be appropriate, when it becomes disproportionate, the Minister must suspend the order he makes. That is why most of these regulations are in the background. They are not in current force because it is no longer proportionate to have them. That applies to many of those specific ones that Deputy Ward mentioned. The regulation of care homes, regulation 8, standards and requirements, I remember those debates and that was certainly a difficult one, but that is not in force and there has not been an order implementing that regulation for some time. It was only in place for a short time thankfully. It was necessary because the Care Commission need to inspect care homes and care homes can only operate as a result of those inspections but it was necessary because there was risk about bringing people into those care homes. There was risk to the Care Commission staff, risk to the staff and residents of care homes. That procedure was suspended on advice but an alternative procedure put in place, which I remember the Deputy saying was not a great procedure, it was to be done virtually effectively. So the Care Commission was still doing the job it could in the emergency circumstances. Perhaps I do not need to go into detail because that is suspended. I do not foresee it being brought back into force but, of course, that is the point of this procedure, that we do not know what is ahead. Should we get into that very serious situation we could implement these regulations. Similarly with Regulation 2, safe distancing is not in force. Regulation 5, the workplace restrictions. There are quite a few controls in that. Among them were the closure of business premises. At one time there were quite a significant number that could not operate, could not open to the public and gradually we reduced that list so that now all businesses can operate. There is no legal restriction because that part of the regulation is suspended. There are certain parts that are still in force which is about requiring some businesses to take our contact details and requiring face masks to be worn on public transport. Those are the 2 areas in the workplace regulations that are still in force and I think should remain still in force. As to the COVID police, as Deputy Ward has said, this is in fact our health and safety team. It has been supplemented during COVID by extra persons who have done a great job going around businesses advising on methods to keep people safe. It is advisory at the moment because it is guidance that they are asking businesses to enforce or to put in place and they have had a great reception from businesses, particularly during the time of opening up, when there was confusion and they have helped businesses put measures in place which have allowed us to feel safe when we go out to a restaurant, to the arts centre or different

places. I give credit to that team who have worked hard in difficult situations. Regulation 3 about the courts: I think this would still allow the courts to sit in different places. I know the court has set up at the R.J.A. and H.S. (Royal Jersey Agricultural and Horticultural Society) because there was space to distance. If the court felt that it still wished to on any one occasion, it would be able to but I think it is the case that the public can still attend court hearings, I would hope so. It may be that they have to give names and contact details. The Regulation 6, the construction regulations are not in force; that was specifically about how construction work might proceed when there was a great fear about people working in close contact environments. It is not in force. Our COVID safe team has, again, helped lots of building firms to operate in a safe manner. Regulation 7 on gatherings, again, those are not in force. One of the most difficult discussions we had among Ministers was that regulation that limited the numbers of people that could gather in a private home. If I was having a family celebration, a family big birthday or something, we limited people to 10 in their own home at one time, then it became 20 and now there is no limit. We fully understood that that was an imposition and we were advised that it was necessary and proportionate because, unlike in a business, you cannot go around and check on what is happening, and that is where we saw outbreaks occurring, as a result of private parties. For a time it was necessary to have that restriction, much as we disliked it but it is not in force now. But I am asking that just in that case we need it, based on experience in the past and those spikes we saw arising from private parties, that we could have the ability to restrict, much as I would rail against it and really press if we had to, but if we have to, to keep the Island safe, we need to. Regulation 9, statutory nuisance, there is another substantive law, a permanent law of statutory nuisances, which is administered by the Minister for the Environment. This one was a specific amendment to that law introduced at the beginning of COVID to include: "As a statutory nuisance events of such size or duration and is held in such circumstances as to create that nuisance." It is the Minister for the Environment who has responsibility for that but I do not think it has been used because there are other measures that were used to the gathering control regulations to restrict events of size and duration. I am sorry, I think Deputy Ward spoke about civil partnerships and I have rather lost the thread, I am sorry.

**Deputy R.J. Ward:**

It is okay, I think I know the answer somewhat.

**The Deputy of St. Ouen:**

Okay. Finally, Deputy Ward asked about unlawful public entertainment regulations and a link between enforcement. I think this is to do with the Bailiff's permits and I believe it is to allow the Bailiff to withdraw a permit allowing public entertainment, having granted one, if circumstances had changed in the interim and the Bailiff, again acting on advice, believed that there was a risk to public health and, therefore, the entertainment should not proceed. Like all these things there is going to be a time limitation on this to 30th April. The Constable of St. Brelade asked whether the Office of the Superintendent Registrar was open; I do not know absolutely currently but I know it has been closed. I have not personally been made aware of it opening because this falls under the remit of the Minister for Home Affairs. If it is not open it would be because of measures needed to keep the workforce and visitors safe in there and other means will have been created to allow the statutory functions of that office to take place, in the same way that we have taken measures to keep Members of this Assembly safe. We would expect workforces to do so as well and within government departments too. But I will make enquiries and I will undertake to get back to the Constable of St. Brelade. I hope that has answered the queries as best as I can.

**The Greffier of the States (in the Chair):**

Thank you very much. In a moment the Greffier will put a link to a vote on the regulations as amended.

[12:15]

In the chat channel the link is available, so I ask Members to cast their votes. If all Members have had the opportunity of casting their votes, I will ask the Greffier to close the voting. The regulations have been adopted.

<b>POUR: 42</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 1</b>
Senator L.J. Farnham		Connétable of St. Brelade		Deputy M. Tadier (B)
Senator S.C Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of Grouville				
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Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

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

Deputy Tadier abstained again and the Connétable of St. Brelade was the contre.

### **The Greffier of the States (in the Chair):**

Minister, do you wish to take them as forward in Third Reading?

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

Yes, if I can propose the Third Reading and thank officers who have worked on this complex piece of legislation but also thank all the teams working in our COVID response. It has been difficult for them, it has been difficult for the whole population, but they have given us good advice and good guidance.

### **The Greffier of the States (in the Chair):**

Are the regulations seconded in Third Reading? **[Seconded]** Does any Member wish to speak on Third Reading? If no Member wishes to speak, we will move straight to a vote. I will ask the Greffier to put up a link, a link is available for a vote on Third Reading. If all Members have had the opportunity to cast their votes, I will ask the Greffier to close the voting. The regulations have been adopted in Third Reading.

<b>POUR: 40</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 1</b>
Senator L.J. Farnham		Senator K.L. Moore		Deputy M. Tadier (B)
Senator S.C Ferguson		Connétable of St. Brelade		
Senator J.A.N. Le Fondré				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				

Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

**The Deputy Greffier of the States:**

The abstention was Deputy Tadier and the contre were the Connétable of St. Brelade and also Senator Moore.

**4. Draft COVID-19 (Employment-Minimum Wage) (Jersey) Regulations 202- (P.85/2021)**

**The Greffier of the States (in the Chair):**

Thank you very much. The final proposition on the Order Paper is the Draft COVID-19 (Employment-Minimum Wage) (Jersey) Regulations 202-, P.85, lodged by the Minister for Social Security. I ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft COVID-19 (Employment-Minimum Wage) (Jersey) Regulations 202-. The States make these Regulations under Article 2 of the COVID-19 (Enabling Provisions) (Jersey) Law 2020.

**4.1 Deputy J.A. Martin of St. Helier (The Minister for Social Security):**

The Employment Law requires me to direct the Employment Forum to consult businesses and other organisations and individuals about the level of the minimum wage and then report these recommendations to me. Unfortunately, due to COVID and most businesses being shut or just like clinging on to survival, they could not go out and it would not have been safe to do so, so my officers, in between the COVID when it was lifting a little bit, did their own consultation. They did contact and put out for people to contact them, all the same organisations that the Employment Forum would do, the unions, et cetera, et cetera, and we had some really, really good responses. I wrote to States Members twice for some input because it just was not about the minimum wage, it was also to see if we are doing it right. Is the Employment Forum the right body to do this, et cetera, and is it the right time and should they do it more than once or do it every year or not? There is a lot more of that to come. But the majority of people who did come back said they want, and I agree, that it is going to be the Employment Forum from now on because of the broad spectrum of the people who are on the Employment Forum. My officers came back and the way we are asking to do it is to use a small COVID regulation, so I can set the minimum wage. I will not be setting the minimum wage with the regulations, if I am allowed to use the regulations today. In the next few days I will lay an order with the minimum wage on it and that is how it will have to be done. The small COVID regulations will be out of date by 1st April next year. Just to explain again, I was slightly late in lodging this and this was because the up-to-date figures I had, if I had lodged this on time, was the average wage up until June and I wanted to see what the average wage was in August because we have a longstanding commitment from P.121/2017 to try and get the minimum wage at 45 per cent of the average earnings. The figure I had before that was lower because the average earnings were higher, so it was lodged a week late but we have finally got there and it is a year late. The proposition asks that we got to 45

per cent of the average earnings by 2020 but we all know what happened in 2020 but we have got there. I make the principles.

**The Greffier of the States (in the Chair):**

Are the principles seconded? [**Seconded**] Thank you.

**4.1.1 Connétable J.E. Le Maistre of Grouville:**

I am fully in favour of this proposition because obviously the proper consultation or the normal consultation process could not take place. I think the Minister is quite right in bringing this forward. Looking through the report, however, her proposal to introduce a minimum wage of £9.22 in January is of great concern to the agricultural community. There is also an issue about the freezing of the benefits in kind, which I have discussed with the Minister, and I know she is willing to have further conversations on that matter. But going back to the £9.22 ... I should really say from the outset I am retired from agriculture, although obviously that is my background. I have minimalist activities in agriculture and I do not employ anybody and I do not receive any government support. But this level of minimum wage will have a massive impact on the growing sector. The dairy sector is slightly different, it does not really employ any low-skilled workers, probably very few, if any. It also has a slightly higher price of milk in Jersey than in the U.K., which enables the dairy industry to pay probably higher than the wages that may be paid in the U.K. That industry, in my view the price of milk is too cheap in the U.K. and I do not think it is economically sustainable and it is certainly not environmentally sustainable. But I would suggest that our dairy industry leads the way in environmental practice and good practice generally. The growing sector is very different. It has a lot of skilled workers in it but it also has basic labourers and it is competing in an international marketplace with cheap food from all over the world. You can import fruit and vegetables from Covent Garden probably cheaper than we can produce them here; that is looking at it purely in monetary terms. Environmentally, of course, buying local is the thing to do. This hike in the minimum wage will have a significant impact on the growing sector or the agricultural industry. I know some discussions have been taking place and what I would call upon in this debate is if the Chief Minister and perhaps the Minister for Economic Development, Tourism, Sport and Culture can make an assurance and not only will they be talking but before January, when this wage is brought in, that some progress has been made to mitigate against this really big increase in the minimum wage. Some things could be mechanised and the industry is mechanising the planting of potatoes, things like that. But our potato, which is very special, is a new potato and requires a lot of handling, basic manual labour. It is not skilled and we are lucky that we have people that come over and we have had people from all different countries over the years, the latest from the Philippines who come over, really keen to work on our farms because they earn, for them, what is really good money. It is mutually beneficial to both parties because locals do not really want to be doing manual labour, even if you put the pay up they would not really want to be doing manual labour. I would like an assurance from the Chief Minister before this debate is out that he will take some action. I know there is support throughout this Assembly because I have spoken to people from different parties who are keen to make sure that we do make sure that our agricultural industry is not hurt by these quite substantive increases. I look forward to hearing from the Chief Minister before this debate is out.

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

I would just refer to the 45 per cent target, which I am aware was endorsed in March 2018 by this Assembly and I would ask the Minister if she still considers it appropriate because it seems to me that it is disproportionately skewed by the level of wages/salaries in the finance industry to the industries which, quite frankly, have difficulty in affording the sort of levels which are being proposed and referred to by the previous speaker. The other point, I do wonder why we need to be ahead of everybody else; I cannot see the justification for that. With regard to the financial implications, it always amuses me where it indicates the regulations have no financial implications.



Well they certainly are for a lot of the businesses in the Island and I do not feel the effect on them is being properly considered, especially in these difficult economic times. Finally, I do wonder how much input that the Government should have in such things at this present moment, given the situation is that it is very, very difficult to find any staff at any level these days and the market itself is probably the best way that wages can be governed. If employers do not pay a decent wage they just simply will not get any staff and that situation prevails at present. I would appreciate the Minister's comments on that.

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

I stand to echo the views of both the Constables who have spoken but most especially the Constable of Grouville. Like him I am a retired farmer, I receive nothing from the States and I do not run a farm anymore.

[12:30]

But the message I wish to concur with is the one to the Minister for Economic Development, Tourism, Sport and Culture about the growing industry in Jersey. Members may not know, the Minister may not know, but given the problems with COVID, with Brexit and other pressures on commodities, the price of fertiliser, if you can get it next season, will be probably 3 times what was paid this year and the plastic to cover the potato crop may not be even available. These are serious, serious concerns for the growing industry and this price rise proposed by the Minister, while acceptable - and I am going to vote in favour of it - we must find a way of mitigating this price rise for those people who employ lower-paid workers in their industry. They cannot stay competitive as things are and Government needs to find a way to help them. We have known for a long time that this industry needs help and they are getting very little, if anything at all. I make that plea to the Minister for Economic Development, Tourism, Sport and Culture to please look at this before £9.22 comes in next year and to find a way of looking forward and helping the growing industry in Jersey before it is too late.

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

I too am looking forward to hearing from the Minister for Economic Development, Tourism, Sport and Culture about what in detail he has got in his schemes in order to support agriculture in particular on the Island and not rely on the minimum wage; it is an artificial way round of doing things. The facts are that we are finding, like many places, in post-Brexit it is increasingly difficult to get any staff at all to work for low-skilled wages and we have to act on that. I congratulate the Minister for Social Security for having reached the target of 45 per cent of the average but I notice that things have moved on. The proper comparison that we need is a comparison with the mean wage because that takes into consideration the distribution of wages. What we are talking about there is 60 per cent of the mean wage is the new target that we should be reaching for because it is the one that defines the poverty level. Unless we can start to eliminate poverty among our workers, whether imported or local, unless we can do that we are simply not going to be able to run those low-grade sectors; that is what is going to happen. We have to make a move on that and I give notice today that as soon as the powers are there and the new figure is lodged, I shall be bringing a proposition to raise it still further. We are committed to improving the lot, to removing income imbalance in our society and we must continue down that path. I look forward to hearing, today if possible, the Minister for Economic Development, Tourism, Sport and Culture or the Chief Minister stating exactly how they will help in our low-paid sectors, particularly our growing industry.

#### **4.1.5 Connétable P.B. Le Sueur of Trinity:**

I am minded to support the Minister with the proposed increase but I would like to echo the views of some of the previous speakers in that there is an urgent need to support our growing industry. Throughout the COVID crisis they were considered as essentially employed and I think that the

essentially employed is something we should bear in mind and I would ask the Minister for Economic Development, Tourism, Sport and Culture to bear that in mind. Because it not only supports the local growing industry, which is vital to food supplies within our Island, but it helps towards our carbon neutrality or strive towards carbon neutrality of not importing food and vegetables which can be grown sustainably here in the Island. I would like to hear something by way of encouragement from the Minister for Economic Development, Tourism, Sport and Culture towards this debate.

#### **4.1.6 Deputy M. Tadier:**

This raises some of the same old arguments that have been put forward in the past and I think we all know that globally that when it comes down to true value it is those who provide food for the planet and for us and those who build homes to keep people sheltered and deal with water because those are all the things which are at the bottom of the pyramid of Maslow's hierarchy of need, those are the true value-adders in our society. There is an irony that those who work in the food industry, whether they are farmers, as we are often told, or indeed the workers that toil in the fields are paid the lowest among anybody, even though they are the most fundamental to our survival and not just in Jersey, as human beings. I was quite saddened, as some Members will know, that very recently you can add Russian workers to the list of those who are being brought over to Jersey and in this case they were being exploited, and I have no qualms about saying that. I caveat of course there are different employers in the industry who have different practices but from what I saw with these Russian workers who were part of the cohort brought over is that there is a general trend of a race towards the bottom. While some Members in the Assembly might say: "It is okay to pay these people a minimum wage because it is a lot of money for them and they appreciate it", if we took that to its logical conclusion we could probably find workers around the world who would be happy to work for less than the minimum wage because that would be a lot of money for them. I would question, what kind of basis do we want for our agricultural industry, the potato industry in particular, in Jersey? Do we want that to be built on, effectively, exploited labour and to poverty wages? I know that the argument has been said and will be said it is not poverty wages for them, they get portacabins with some basic rusty white goods in, which I also saw incidentally and they are grateful for it because they can save the money up for themselves. What I saw in this case in fact was Russian workers who were ostensibly brought over for a 6 to 9-month contract, only to find out that they were being worked very hard for, effectively, 3 to 3½ months and that they ended up much more out of pocket than they thought. Because they had to pay for their own plane fares to come over, which is not unsubstantial, that there were fees they had to pay to agencies and that in fact that the tax allowances, which they should have been allowed, they are calculated on a 6 to 9-month basis, that they would have had that pro rata. But because they were only working in Jersey, let us say, for 3 months they only had a quarter of their tax allowance which brought it right down, which means that even though they were earning minimum wage they ended up paying quite a significant amount of tax, compared to somebody who might have been working here for 12 months. The point also on top of that, I think it has to be said, is that people need to go into this with their eyes open and this certainly was not the case for them. I understand the argument, it is said that many locals do not want to do this kind of work. I am not sure that it true, I think, if living wages were being paid for some of this work. Incidentally, that is the other point I was going to make, is that they were also being asked to do, in some cases, 80-hour days - that is paid work - and of course the days were longer because that did not take into account the unpaid breaks. You had these workers from 6.30 in the morning until 8 o'clock at night and initially they were not even offered a day off a week, so they were working for about 3 weeks before they realised that they had a right to ask for a day off and that they were given them. These are some of the practices that are happening right under our noses in the 21st century in Jersey and I question whether that is sustainable, let alone a humane model that we want to see in our Island industries. What is the solution to that? Also there are market forces, and I certainly know that in recent times potatoes were, effectively or seemingly, having to be sold as loss leaders in many of the U.K. supermarkets and very small profit margins if they existed, if at all. That does not seem

like a sustainable model, yet at the same time we had a question of food security locally and I would question simply whether or not people just need to pay much more for their produce, be willing to pay much more so that they can pay decent wages to whoever is working in those fields, whether they are locally-sourced or if it is imported labour. But this is the side that does not get put forward when we hear the farming lobby talk to us about, I am sure, how difficult the industry is. I know farmers myself and they work very hard but this is the other side of the coin. I think that is the concern that we need to also bear in mind when it comes to that section. I would not want to see, for example, a 2-tiered wage system where we say we aspire to the living wage for all workers but we have some kind of carve-out for an industry to allow that just to exist on a minimum or even below minimum wage. We only need to think back to what happened with Condor Ferries a number of years ago when Senator Maclean was at the Economic Development Department trying to defend Condor, who were paying something like £2.50 an hour to their staff through some loophole because they were employed in a different country, even though they were really working in between Jersey, France and England. That is the kind of thing which I think our residents do not want to see and this is what we should all be aspiring to in the search for a living wage. The living wage should be the minimum wage. People should be able to afford to survive in Jersey without resorting to government benefits and to have that dignity to know that if they work a full weeks' work that they will have enough money to at least pay the rent and pay the bills, if not have a little bit more to enjoy themselves.

#### **4.1.7 Connétable J. Le Bailly of St. Mary:**

If we are to keep this Island functioning to the level at which we all expect then there is no doubt that the minimum wage needs to increase to a realistic figure. We rely heavily on immigrant labour and probably always will, as many local people will not work for long hours in sometimes very difficult conditions that the immigrant labour are prepared to accept for very little reward. We, like other jurisdictions, now find ourselves in a position where the lower practical skills do not exist due to encouraging our children to be far more academic. We are also in the same position as skilled labour, as an example, the health system, education, the building and mechanical industries and others. The higher-skilled labour market gap is widening, as these people have to be poached and offered an inducement in order to employ them. The same will happen with our lower-paid workers unless we keep pace with reality. You have to ask yourselves, would you take the low-paid work for the minimum wage as it is at present? Would you take the work at the new proposed rate? I am sure that the answer to both would be no; that then should make your decision easy to support this proposition

#### **The Greffier of the States (in the Chair):**

Thank you. We have one more Member on the list to speak in this debate at the moment. Deputy Le Hegarat has called for the adjournment. Other Members have suggested that it would be better to carry on and finish the Order Paper. It is not my choice, it is your choice. So I can test the views of the Assembly on the adjournment.

#### **Speaker:**

Do we know how many other people might want to speak, Sir?

#### **The Greffier of the States (in the Chair):**

Nobody else has put their name down.

#### **The Connétable of St. John:**

I will be very brief, Sir.

#### **The Greffier of the States (in the Chair):**

But Senator Mézec has indicated he might wish to speak.

**Connétable S.A. Le Sueur-Rennard of St. Saviour:**

I think we should adjourn and come back.

**The Greffier of the States (in the Chair):**

Sorry, Deputy, I think with a competition of voices here I think the best thing is for the Assembly to vote on whether or not to adjourn and if we do not vote to adjourn naturally we will have to carry on until the end, I think. I will ask the Greffier to put a link into the channel for adjournment for lunch.

[12:45]

Those Members who wish to adjourn now for lunch will vote pour, those Members who wish to carry on to the end of the Order Paper will vote contre. The link is available, so I ask Members to cast their votes. It is pour to adjourn, contre not to adjourn. Contre is to carry on.

**The Connétable of Trinity:**

Sir, in my rush I have voted the wrong way. I wish to vote to adjourn, please.

**The Greffier of the States (in the Chair):**

Are you sure your blood sugar is in the right place, Constable? You have voted to adjourn. If all Members have had the opportunity to cast their votes, I ask the Greffier to close the voting. The Assembly has voted not to adjourn.

<b>POUR: 11</b>		<b>CONTRE: 27</b>		<b>ABSTAIN: 0</b>
Senator S.C Ferguson		Senator L.J. Farnham		
Senator T.A. Vallois		Senator K.L. Moore		
Senator S.W. Pallett		Senator S.Y. Mézec		
Connétable of St. Brelade		Connétable of St. Saviour		
Connétable of Trinity		Connétable of Grouville		
Connétable of St. Mary		Connétable of St. Peter		
Connétable of St. Ouen		Connétable of St. John		
Connétable of St. Martin		Connétable of St. Clement		
Deputy L.B.E. Ash (C)		Deputy J.A. Martin (H)		
Deputy M.R. Le Hegarat (H)		Deputy G.P. Southern (H)		
Deputy S.M. Ahier (H)		Deputy of Grouville		
		Deputy K.C. Lewis (S)		
		Deputy M. Tadier (B)		
		Deputy M.R. Higgins (H)		
		Deputy J.M. Maçon (S)		
		Deputy of St. Martin		
		Deputy L.M.C. Doublet (S)		
		Deputy R. Labey (H)		
		Deputy of St. Mary		
		Deputy G.J. Truscott (B)		
		Deputy J.H. Young (B)		
		Deputy of St. Peter		
		Deputy of St. John		
		Deputy R.J. Ward (H)		
		Deputy C.S. Alves (H)		
		Deputy K.G. Pamplin (S)		
		Deputy I. Gardiner (H)		

It was very clear that the Assembly wishes to carry on, in which case I call the Constable of St. John.

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

The first speech I made in this Assembly was about the minimum wage and at the time I spoke about agriculture because £1 million had just been committed to a museum for agriculture. I said then, and I will say it again, if we do not help that industry we may need a larger museum. We have heard about the environment, we also need to think about food security; that really is important for us. What, if anything, are we going to do to help both agriculture and hospitality? We all want, I think, to support an increase in the minimum wage but what do we do in terms of supporting these industries? When we compare the support that Jersey offers its farmers, the custodians of our land, compared to other jurisdictions, including the Isle of Man, for example, what do we do to help them and what are we going to do in the future? Deputy Tadier mentioned tax and I was surprised around 12 months ago at the level of income tax paid by some of our farm workers, some of those workers who are working those long hours but they do contribute to tax in many ways. I did speak in my first speech about, could we do something with seasonal workers' social security contributions? Often they have private health insurance because they cannot claim off of the Social Security and I really would like to hear from the Minister for Economic Development, Tourism, Sport and Culture and the Minister for Social Security to see what they are doing to help these people and these industries.

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

Just following on, the whole question of agriculture, wages, assistance to agriculture and so on, the States have constantly looked at this issue but not with any real data. I have asked repeatedly over time about the amount of subsidies given to farmers or what they have been allowed to do with planning. For example, they get agricultural buildings and then sell off the older buildings and then they convert the agricultural buildings into trading things. We need to understand fully what is going on in agriculture. I believe we could have food security, I believe in what they are doing to maintain the countryside, but the States need to get all the data so we can see. It is not just a question of the wages and they are either paying out too much or too little. It is not about the level of profits they are making. We do not have the full picture. We need to have that before we can ever resolve this issue once and for all. So I ask the Ministers come clean for a change, rather than giving us piecemeal information give us the lot that I have asked for in the past.

#### **4.1.10 Senator S.Y. Mézec:**

Just very briefly because of course this is a debate about setting the process for setting the minimum wage now and not the minimum wage itself. Of course we will support this proposition to enable the Minister to set a minimum wage outside of what would have been the ordinary process; that is the right thing to do here and of course we will support that. As Deputy Southern said, that how we look at the minimum wage moving forward does need a proper think. I would say that the process that has been used up until now can be demonstrated to be broken by the fact that our minimum wage has fallen below our neighbours, including Guernsey, and that we are going to support those industries in our economy that are so important but, most importantly, to support people's livelihoods. We are going to need a process for setting the minimum wage that does include some consideration about what the poverty level is in Jersey and ensuring that if you are in full-time work you should not be living in poverty. If you are in work you are worth the living, you are not worth less than it and that ought to come from your employer. If there are conversations to be had with industries about supporting them to enable that, then let us have those conversations and let us be real about it. But to have to live in poverty when you are in full-time work or to have to go to the States to subsidise your living costs because your employer is not paying you enough to live on is a situation that must be abolished in Jersey because we are a wealthy and an affluent Island; we are better than that. We can get there and I look forward, I hope, to what will not be a very long period of time where our minimum wage will simply be a living wage and that those in work will have the dignity of knowing

that they are being paid an amount that keeps them out of poverty and that ought to be the future. Supporting this proposition I see as a step towards that future that I look forward to.

**4.1.11 Senator L.J. Farnham:**

A number of Members have asked that I comment and I am pleased to do so, to reassure Members that my department is working on ways to support the industry. In fact Deputy Morel and I have another briefing on Monday morning scheduled. The cost of a £9.22 wage for the potato sector alone is over £1 million. Members should realise, and I am sure they do, but as we move towards our quest, which I am sure most of us support for a living wage, every pound we put on the minimum wage puts millions of pounds worth of costs on to the payroll of businesses. We must realise that we have to support those businesses and that support will come in a number of different ways, including productivity support, perhaps increased land area payments or alternative form of financial support for the agricultural sector but not just that, tourism, retail and other sectors who we are going to have to help bridge the gap from minimum to living wage. I have not spoken to the Minister for Social Security about this and our officers have not yet approached her officers, it may well include a request to reduce social security contributions for employers in those sectors to help bridge the gap. When we do come back with support for the sectors, which will probably mean millions of pounds worth of support to help these industries bridge the gap to get to a living wage, I expect and very much hope that all Members that are pushing for the living wage will support the way we support them. I hope that provides some reassurance.

**The Greffier of the States (in the Chair):**

Does any other Member wish to speak on the principles? If no other Member wishes to speak, I close the debate and call on the Minister to respond.

**4.1.12 Deputy J.A. Martin:**

I thank Senator Farnham for stepping in to say that he has got some ideas. I have heard some of his ideas before but I do to all the people who have spoken on behalf of the farmers, some knew that it would probably be just around the £9 or just over and they were concerned about that, so it is not too far I will say. We made a commitment in here to get to the 45 per cent of the average earnings in 2020, by 2020 and we could not do it because of COVID. Out there in the industries, and it is because of a shortage of staff, people are paying more than £9.22 at the moment. We cannot carry on like that, we need to make sure that places do have staff because it is not that they literally cannot open on some days of the week, and it is not fair to the employees that might be just asked to work a little bit more or another shift. If it is in law, that is fine. If it does not abuse the Employment Law that is fine but then again some people might just be getting a bit too pushed. Deputy Tadier, he is definitely right. I could not go in the end but the Minister for Home Affairs, we are coming up with some brochures because it is our international reputation. These workers are coming through the U.K. on a visa and if they go back and say they have had a terrible experience in Jersey we will not get any more. We need to know their rights, we need to know they are not ... I think Deputy Tadier said they were getting part tax, tax is over a year, as far as I know. They should not be taxed for 5 months if they know their 5 months' wages is going to grow over the year and it is under the taxable, the £16,000, they should not be getting taxed. Yes, they do pay social security and, again, this was a big problem on the population board. People are working on it now, you have to pay social security for 4 years to even then later down the line have a pension. But we are looking into it to see if there is a different way we can do it ...

**The Greffier of the States (in the Chair):**

Minister, sorry to interrupt, Deputy Tadier has asked whether you would give way at this point for a point of clarification.

**Deputy J.A. Martin:**

Yes, Sir.

**Deputy M. Tadier:**

Yes, it is just to ask whether the Minister is aware or can clarify that there is a pro rata tax allowance applied. Where a resident who has been here for the whole year and a worker who has been here for a whole year gets £16,000 roughly as their tax allowance, if you were only working for 3 months of that year you would only get a quarter of that tax allowance, so £4,000 and then you would pay tax on anything above that. Is the Minister aware of that and is that her understanding as well?

**Deputy J.A. Martin:**

I am sorry, Deputy, I am not aware of that. I will absolutely check that out because I have never found it ... unless it is different for people who come here for a little while; it has happened to myself, it has happened to my family. You start a job at the beginning of the year and it is projected that you will earn and you will pay that tax. If they have left after 6 months, and some have and gone travelling, they get the tax back. This is not my area but I was surprised when you said that. I will get that completely checked out for you. These are the things we need to be able to tell the farm workers who are coming on visa, who may not have English as their first language. In all the leaflets that myself and the Minister for Home Affairs are working on for the next season, we want them to know their rights and want them to know their rights before they come. We are on it, Deputy Tadier. Yes, so I agree. We have got 2 different things that we are trying to do here, we are trying to make sure that people can live on their wage and it be a minimum wage or a living wage. We have got to the 45 per cent and Deputy Southern says it should be more and I agree it is late in getting there. All this does is allow me to lay the order and then when I have laid the order it sounds like Deputy Southern or one of Reform will put in another price; that is when we have the big debate on what the minimum wage will be. I have set it at £9.22 because that was a similar figure that was consulted on across the board; even Chamber could live with it. I do know it will be just possibly a little bit too much for the farmers but I am glad you have heard Senator Farnham.

[13:00]

We really have got to make sure we are not holding the minimum wage down here because of workers there. But I would never agree to having a smaller wage because it is absolutely an important job and it is a hard job, farming. I would not want these people earning less. It is a difficult balance to get there but some of it could be subsidies that he mentioned, social security payments, but it would be for the employees maybe but not for the employers but there is lots to think about. The only other change which I do think is good from our consultation, minimum wage always used to go up on 1st April. Most industries would love it to go up, that is why this year it will go up on 1st January and it just gives a whole year then. When they are recruiting by about now they know what the minimum wage is in January. If you are bringing in workers, you are advertising, that will be the minimum wage. I think I have tried to answer all of the questions and if I have not I will try and find out the thing that Deputy Tadier asked me. I maintain the principles and ask for the appel, please.

**The Greffier of the States (in the Chair):**

Thank you very much. The Greffier will put a link in the chat channel for the vote on the principles on P.85. There seems to be a technical delay in getting the link out. The appel has been called for.

**Deputy R.J. Ward:**

It might be that we are out of time. Sometimes it only runs for a 4-hour circle.

**The Greffier of the States (in the Chair):**

No, the 4-hour thing was a long time ago, Deputy; they have changed that. There appears to be a technical problem in that the Greffier's chat is quite different to everybody else's chat. The Greffier's chat is full of votes.

**Senator L.J. Farnham:**

I wonder in the absence of the vote appearing and in the interest of time, Members would be prepared to take this on a standing vote.

**The Greffier of the States (in the Chair):**

The appel has been called for by the Minister. She is entitled to ask for a recorded vote. It is our job to provide a means of recording the vote. If you just bear with us for a second we will make sure a link appears. We will not be using the chat for those Members who have asked because we have done that before and it is chaotic. If Members could just hold off for a second we will find a way of providing a link.

**Speaker:**

Sir, those in the Chamber could vote verbally, if that helps.

**The Greffier of the States (in the Chair):**

No, I think we need to have one consistent way of recording the votes. Luckily we have 2 Greffiers. The link is now available, so I invite Members to cast their votes. This is on the principles of P.85, if you have forgotten. I would ask Members who see all the other links that have appeared to ignore them because the votes work perfectly well and I would just ask Members to cast their votes because I will ask the Greffier very shortly to close the voting.

**Speaker:**

The vote appears to be like the buses, Sir, we have now got 2.

**The Greffier of the States (in the Chair):**

It was all going so well this week. The principles have been adopted: there were 37 votes pour in the link, no votes contre. There were a number of other votes in the chat, 3 or 4, which we will pick up when the vote is published. There have been 2 extra votes since we announced the result, which I will allow because obviously we have had some technical difficulties with timings around this particular vote.

<b>POUR: 39</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham				
Senator S.C Ferguson				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Deputy J.A. Martin (H)				



Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy I. Gardiner (H)				

Deputy Le Hegarat, this proposition falls to your panel, do you wish to call it in?

**Deputy M.R. Le Hegarat (Chair, Health and Social Security Scrutiny Panel):**

No, thank you, Sir.

**The Greffier of the States (in the Chair):**

Minister, there are 2 regulations, how do you wish to proceed with them?

**Deputy J.A. Martin:**

*En bloc*, Sir, please.

**The Greffier of the States (in the Chair):**

Are the regulations seconded? **[Seconded]** Does any Member wish to speak to these regulations? Does any Member wish to speak to the regulations? I heard a voice. If no Member wishes to speak, I am thinking I might take this on a standing vote unless anyone calls for the appel. The regulations are adopted. Minister, do you wish to proceed in Third Reading?

**Deputy J.A. Martin:**

Yes, Sir.

**The Greffier of the States (in the Chair):**

Are the regulations seconded in Third Reading? **[Seconded]** Does any Member wish to speak on Third Reading? If no Member wishes to speak, I will call for these regulations to be adopted in Third

Reading on a standing vote, unless I hear a request for the appel. The regulations are duly adopted in Third Reading.

## **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Greffier of the States (in the Chair):**

That brings us to the arrangement of public business.

**5.1 Deputy C.S. Alves of St. Helier (Chair, Privileges and Procedures Committee):**

There are some minor changes to the arrangement of public business from what was listed on the Consolidated Order Paper. The debate on P.76, the planning law amendment regarding trees, has been listed to resume on 18th January 2022. P.83 will be listed for a future meeting following the reference back today. We also have the resumption of P.79, the Social Security amendment regarding the minimum earnings threshold, which was referred to Scrutiny in September. There are currently only 5 propositions listed for the next meeting. As it stands, given there is the debate on the release of the C.A.M. minutes, the meeting could go into Wednesday. With that I propose the Arrangement of Public Business for Future Meetings.

**The Greffier of the States (in the Chair):**

Is the arrangement of public business seconded? **[Seconded]** Does any Member wish to speak on the arrangement of public business? If no Member wishes to speak, I will assume that public business has been adopted on a standing vote and the Assembly is, therefore, adjourned until 9.30 a.m. on Tuesday, 2nd November.

**ADJOURNMENT**

[13:09]