

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 8th OCTOBER 2013

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[09:31]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1. The Bailiff:

As Members know, since we last met, there has been an election for the Connétable of Grouville and there were 2 respected candidates. The successful candidate was Mr. John Le Maistre, who was sworn in on Friday and I am delighted to welcome him to his first Assembly. **[Approbation]**

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

The Bailiff:

I am able to inform Members that Deputy Power resigned as a member of the Corporate Services Scrutiny Panel.

2. Senator S.C. Ferguson:

We regret losing Deputy Power because he has been an invaluable member of the panel. He has done some excellent work, including chairing the report we did on the population policy and we shall be sorry to lose his service, but we do appreciate that it is very difficult to be in 2 places at once. As a result of that, I would ask the House if they would approve the fact that the maximum number on this particular Scrutiny Panel, the Corporate Services Scrutiny Panel, should be reduced to 4, because if we remain at 5, we will have difficulty meeting the quorate requirements, so I ask the panel ...

The Bailiff:

It is a matter for you, Senator. Under Standing Orders, it is your decision.

Senator S.C. Ferguson:

I am sorry, I thought we had to ask the States. Oh right, in that case ...

The Bailiff:

No, I think it rests with you, but you are informing them that is your plan.

Senator S.C. Ferguson:

I shall resort to benevolent dictatorship then.

The Bailiff:

Very well, thank you.

QUESTIONS

3. Written Questions

3.1 DEPUTY T.M. PITMAN OF ST. HELIER OF THE CHIEF MINISTER REGARDING DETAILED COURTS COSTS:

Question

Further to his answer on 24th September 2013 will the Chief Minister provide an estimate of the full court and case costs arising from the secret court proceedings against former Senator Stuart Syvret and show this in relation to the annual court budget for the period concerned?

Answer

As explained at the last States sitting on 24th September 2013, the costs incurred by the Data Protection Commissioner's Office on this case amounted to just over £387,000 for a 6-year period from 2008 to September 2013. These costs were met from the court and case costs budget administered by the Judicial Greffe.

The only additional costs were £14,010 incurred by the Bailiff's Chambers, which were also met from the court and case costs budget. The Judicial Greffe incurred no additional costs.

This means the total cost of the case to the court and case costs budget was £401,010.

Court and case costs budget (Bailiff's Chambers and Judicial Greffe) (£):

| 9 months | Full year | Full year | Full year | Full year | Full year |
|-----------------|------------------|------------------|------------------|------------------|------------------|
| 2013 | 2012 | 2011 | 2010 | 2009 | 2008 |
| 3,373,718 | 4,117,900 | 3,753,555 | 5,224,482 | 4,171,552 | 2,863,710 |

Total for 6 year period (£):

23,504,917

The departmental budgets for the Court Services and the Data Protection Commissioner's Office from 2012 – 2015 are publicly available on page 49 of the Medium Term Financial Plan.

Past expenditure can be found in the States of Jersey Financial Report and Accounts for each year.

These documents are all available on www.gov.je

3.2 CONNÉTABLE OF ST. MARY OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE NUMBER OF REQUESTS TO IMPLEMENT SPEED LIMITS:

Question

Will the Minister advise approximately how many requests, if any, to implement a speed limit which is not in accordance with the limits defined in the existing policy are received annually?

Will the Minister further advise whether he believes the current policy remains appropriate for the Island?

If the Minister does not consider the current policy appropriate (and further to the adoption by the Assembly on 3rd December 2008 of P.166/2008 'Speed Limits: creation of a review working group' and the resulting work by the Department) would he outline his thoughts on a way forward?

Answer

Requests for consideration for lower speed limits are regularly received by my department, either from the Connétables or from members of the general public. Over the last 18 months approximately 20 requests for changes on particular roads or areas of roads have been received, of which about half were consistent with current policy (and are being processed) and half were not, these will not be considered further until a review of the policy is carried out.

I do believe that the current policy is reasonable which is why I have agreed to relatively minor changes which are now being processed. It is apparent however from the many communications my Department receives that speed limits are a contentious issue and I therefore intend carrying out a public consultation on

future speed limit policy before the end of the year. I will give consideration to the public's views and any potential changes to the policy can then be incorporated within the road safety strategy which I am currently progressing. I anticipate publishing the strategy white paper early in 2014.

3.3 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING CONDITIONS TO BE MET FOR THE INCINERATOR PRIOR TO ACCEPTANCE BY THE STATES:

Question

Further to his response to my question of 24th September 2013 regarding the Energy from Waste Plant, would the Minister agree to release to Members that part of the contract which relates to the conditions that have to be met before the incinerator is considered able to be accepted by the States from the contractor?

Answer

The plant was formally accepted at "Takeover" which was achieved on the 29th July 2011. Takeover is the point at which the plant is handed over from the contractor CSBC (Jersey) Limited to the purchaser, the Minister for Transport and Technical Services.

There is a strong contract in place which enables officers to ensure that the plant is working to a high standard. This contract is based on the Institution of Chemical Engineers IChemE Red Book model form of contract. The IChemE Red Book is a public document and the Deputy is welcome to have a copy. The full contract is made up of The Agreement, The IChemE Red Book 4th Edition 2001, The Special Conditions, Specification and Schedules. The contract is subject to a Confidentiality clause which requires written consent from the Contractor to release contract documentation for purposes other than design, construction, operation or maintenance of the plant.

The Minister has asked CSBC (Jersey) Limited if they are happy to release relevant parts of the contract documentation to Members. CSBC (Jersey) Limited have advised that individual parts of the contract read in isolation are open to misinterpretation and thus are of little use. CSBC (Jersey) Ltd have also advised that it is against their company policy to release contract documentation into the public domain.

CSBC (Jersey) Limited's view is a standard industry position and it is very rare for large commercial contracts to be published in the public domain. The IChemE model form of contract is a widely used contract which successfully deals with the complex way in which purchaser and contractor divide the responsibility for creating new process plant.

3.4 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING RESURFACING OF RUE DES PRES:

Question

Would the Minister advise whether the resurfacing work at Rue des Prés was considered to be sub-standard and, if so, would he indicate what he intends to do about it?

Despite his recent statement that future resurfacing would be of a higher quality, would he concede that the present resurfacing of Rue à Don is no better than Rue des Prés and, if so, what measures are in place to ensure the works are undertaken to an acceptable standard?

Answer

The resurfacing works on Rue des Prés are not considered to be sub-standard and fully meet the requirements of Transport and Technical Services' Specification for Highway Works.

The surfacing works that have been completed to date on Rue à Don have been carried out in accordance with the above Specification and are all fully compliant to date. Transport and Technical Services have a full time team on site to supervise the Contractor and to ensure he delivers all aspects of his work in accordance with the Specification.

3.5 DEPUTY M. TADIER OF ST. BRELADE OF THE CHIEF MINISTER REGARDING ROMANIAN NATIONALS IN JERSEY:

Question

- (a) How many Romanian nationals are there in Jersey and, if no exact figures are available, please explain why and what current estimates are?
- (b) Should a representative from the Romanian Embassy be invited to visit Jersey to discuss, *inter alia*, work, housing, discrimination and driving licence issues?
- (c) Is there currently a Romanian Consul in Jersey?
- (d) Are there any plans for such a post to be created and if so how would this be done?
- (e) Is any information from States departments published in Romanian and if not, why not?
- (f) Is the Chief Minister willing to take up the issue of Romanian driving licences not being recognised in Jersey and *vice versa* with the Romanian authorities?

Answer

- (a) In June 2013, there were 807 Romanians living and working in Jersey; 57% male and 43% female.
- (b) The Minister for External Relations has written to the Romanian Embassy requesting a meeting with the Ambassador. At that meeting it would be opportune to discuss how we might further support the affairs and interests of those Romanians living in the Island.
- (c) No.
- (d) The appointment of a consul to any jurisdiction is a matter for each national government to decide.

As I have mentioned in part (b) of this question, the Minister for External Relations has sought a meeting with the Romanian Ambassador and it is likely that the matter of appointing an Honorary Consul for Romania accredited to Jersey, or possibly the Channel Islands, will be discussed.

- (e) There is no information from States departments published in Romanian. The publication of official documents in languages other than English, Polish and Portuguese is kept under review by my department's Communications Unit. To date there has not been an identified need to add this extra language.
- (f) As you know, at a meeting at the Department for Transport in London last November, officials from the Transport and Technical Services Department asked representatives of the Driver and Vehicle Licensing Agency to approach all new EU/EEA jurisdictions to recognise Jersey licences for mutual exchange. Since then officials from my department have been engaged with the Romanian Embassy on the possible reciprocal exchange of Jersey and Romanian

driving licences. The matter is currently under consideration by the Romanian authorities, who have said they are interested in reaching agreement on this issue.

3.6 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE COST OF PROVIDING FREE DOCTORS VISITS:

Question

Would the Minister provide an estimate for the additional cost of providing free doctors visits –

- (a) for all residents who meet the 5 year residential requirements; and,
- (b) for all over 65's who meet the 5 year residential test?

Answer

General Practitioners (GPs) operate as private businesses and the Health Insurance legislation does not require GPs to share their pricing model nor does it control the fees GPs levy on patients. The Health Insurance Fund (HIF) currently provides £20.28 in medical benefit to contribute towards the cost of each GP consultation. This is paid directly to GPs on receipt of a Medical Benefit claim.

In the time available to provide this written answer, some initial estimates have been made based on existing information held within the Department and the 2011 census. These suggest that, based on the existing system and details of charges currently paid directly by patients, the **additional** cost of free GP consultations for all individuals with at least five years residence could be between £9 million and £12 million per annum. In respect of those just aged over 65, the estimates are calculated as between £3.5 million and £4.5 million.

Changing the funding mechanism from a co-payment system to 100% public funding for people with 5+ years residency is likely to lead to changes in both patient behaviour and GP business models. For example, one might anticipate far fewer 'no-charge' and discounted visits coupled with an increase in requests for home visits. Therefore the estimates provided here are not likely to fully represent the actual costs to the HIF if the full cost of the fees levied by GPs were paid from the public purse.

3.7 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE USE OF FOREIGN LANGUAGES IN JERSEY IN TERMS OF BUSINESS:

Question

Will the Minister state which foreign languages are the most important for Jersey both currently and in the medium and longer term in terms of business?

What plans are there for co-ordination with the Minister for Education, Sport and Culture to make sure that a sufficient number of local school-leavers are sufficiently competent in these languages to meet current and future demands for these language skills for business and culture?

Answer

Businesses in Jersey increasingly work in a global market place with the majority of business transactions undertaken using the English language, except in the emerging BRIC markets and the Middle East. As business development, from Jersey, to these emerging markets represents a longer term investment, where opportunities or needs arise with regard to language these will be prioritised by States Departments in conjunction with private sector suppliers.

It is therefore currently believed that the most likely medium to longer term business language requirements include Mandarin (China) and Portuguese (Brazil).

In 2007 the Council of Ministers agreed to the establishment of a Skills Executive comprising the Ministers and Chief Officers for Economic Development, Education Sport and Culture and Social Security. The purpose of the Skills Executive was to give political leadership, determine policy priorities and provide strategic direction to an employer-led Skills Board charged with co-ordinating the work of three government departments in developing policy and strategy for enhancing skills – including languages - in the workforce and those about to enter it.

Skills Jersey Board activity to identify where the skills gaps are now and where industry feels it will be in the future, with the Board tasking officers from all three departments to work closely with industry representatives to develop strategies to better align the skills needs of businesses and aspirations of individuals.

Individuals who study languages at a higher level in Jersey have remained relatively and consistently low over the last 5 years with a slight dip in the 2013/2014 academic year.

Enhanced language skills are likely to become a key employability asset in terms of the future Jersey workforce and the States is seeking to promote languages alongside other higher level professional skills, through the recent launch of the ‘Skills Accelerator’ product. Under this EDD funded scheme, individuals – with the support of their employer – can access up to 75% of the costs of specialist training, with a financial cap of States support at £5,000. By taking advantage of a Skills Accelerator grant, businesses can identify those key individuals with both a business need and a languages capability and acquire the requisite private sector training required for them to learn those languages appropriate for future business development.

3.8 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING PLANS TO BUILD A MULTI-PURPOSE ARTS CENTRE IN JERSEY:

Question

What consideration, if any, has been given to building a multi-purpose Arts Centre in Jersey and, if none, why not?

If discussions have taken place, what potential sites have been identified, what costings and funding mechanisms are anticipated and is there support from the Department for such a project?

Answer

I can confirm that consideration is being given to the building of a multi-purpose Arts Centre in Jersey to address the shortcomings of the existing building in Phillips Street and the transfer of St. James to the Youth Service. This has been addressed in the context of a review of the current range of arts and cultural facilities in the Island, which has been carried out by a project group including representatives of the Department for Education, Sport and Culture, the Jersey Arts Trust, and the Jersey Arts Centre. The project group has consulted with cultural organisations, States departments, and other interested parties.

The final report of the project group was received by the ESC Ministerial Team in September, and this included a recommendation that consideration be given to a new Arts Centre.

The ESC Ministerial Team has agreed that further consideration should be given to this proposal, and has requested that funding should be set aside in the Long Term Capital Plan in 2016 to enable this facility to be developed. It is recognised, however, that there are many other demands on the

forward capital programme, and that decisions will need to be taken by the Council of Ministers about which projects can be afforded within the total funds available. It may be that an alternative option, such as the refurbishment or redevelopment of the existing site, will need to be considered.

At this early stage a site for a new arts centre has not been identified, and would only be explored further if the project was approved as part of the Long Term Capital Plan.

3.9 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING AN ISLAND-WIDE SYSTEM FOR KERBSIDE RECYCLING COLLECTIONS:

Question

Is the Minister committed to an Island-wide system of kerbside collection for recyclables; if not, why not and, if so, will he advise when such a system will be available?

Does the Minister accept that having 12 potential recycling schemes running parallel, all offering different services, is not as efficient as having one centralised system?

What does the Minister estimate a realistic cost would be for a centralised, Island wide system of kerb-side collection for recyclables?

Answer

Household kerbside recycling remains a core strategy for my department as it brings recycling directly into people's homes; making it easy to recycle and embedding recycling into everyday life. It has a fundamental part to play in changing behaviour so that the Island as a whole recognises our waste as a resource rather than just rubbish.

Since the Solid Waste Strategy was agreed by the States Assembly in 2005, my department has been working with the Comité des Connétables to implement household kerbside recycling in each Parish. Unfortunately, as the decision to introduce kerbside recycling lies with each individual Parish, I am unable to advise when an Island-wide system will be available but I can reiterate to those Parishes that have not yet provided recycling collections to their residents that my department will provide support in designing, implementing, communicating and monitoring your Parish kerbside collection.

I will acknowledge that the complexity of introducing schemes on a Parish by Parish basis is not an efficient use of officer time within my department and that the differences in recycling collections across Parish boundaries can cause confusion, which only serves as a barrier to using the recycling collections. An Island-wide centralised recycling scheme may be a solution to overcome these failings but it is not an option my department has explored and it would require the support of the Comité des Connétables if it's feasibility and cost are to be investigated.

My department is currently conducting a review of the Solid Waste Strategy (2005) which will be complete by the end of the year. This exercise will assess performance against the 2005 strategy and set out new waste minimisation and recycling targets for the next 5 years. Working in partnership with the Comité des Connétables will continue to be essential if we are to increase sustainable waste management practice on the Island, and so we will invite the Comité to hear our findings and discuss how our strategy can be achieved efficiently so that recycling becomes part of everyday Island life.

3.10 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE IMPACT OF POPULATION INCREASES ON JERSEY'S GVA:

Question

Will the Minister for Treasury and Resources provide Members with a much fuller explanation of the last paragraph on page 6 of the Report entitled: "Measuring Jersey's Economy: Gross Value Added (GVA) 2012"; explain the full effect on Jersey's economy at present and going forward if the population continues to increase and real-term GVA per capita decreases as a consequence and explain what policy measures, if any, he proposes to take to remedy this situation?

Answer

GVA per capita is the product of trends in GVA and the population but it is wrong to imply that there is a simple causal relationship between the two components. That is, higher population does not necessarily lead to lower GVA per capita and vice versa. Population in Jersey has increased every year between 2001 and 2012 but GVA has followed a much more varied cycle not least after the onset of the global financial crisis.

At times in recent years we have had periods when population, GVA and GVA per capita have increased (2005-2007) and periods of a weaker economy when population has increased but GVA and GVA per capita have actually fallen (2001-2004 and 2008-2012). It is important to remember that GVA trends since the onset of the global financial crisis in 2008 have been dramatically affected by the low interest rate environment which has led to large falls in financial services profitability and in particularly banking profitability. UK interest rate trends and their impact on the local economy bear no relationship to the level of population in Jersey.

While the underlying trends need careful interpretation the Council of Ministers have recognised the need to act and have a wide range of policies in place to improve the underlying performance of the economy. The States will lay the foundations now for future economic growth based on productivity improvements that will raise both GVA per person employed and per capita. This is being achieved in a number of ways and initially through short-term fiscal support for the economy to stimulate activity and boost employment.

In the medium term, the Economic Growth and Diversification Strategy (EGDS) will underpin economic growth and job creation policies through growing and diversifying finance, new enterprise, use of the Innovation Fund and more inward investment. In line with the EGDS, and the 2012 Strategic Plan, inward migration will only be permitted where it can be demonstrated that it will support high value activity and job creation. This will be further outlined in a population policy being developed for debate in the term of this current Council of Ministers.

At the same time the States will provide fiscal stability and certainty that will help growth flourish whilst also committing to essential investment in areas such as health, social housing and liquid waste. Supporting the economy and investing to improve our competitiveness now will mean Jersey is in the strongest position possible to improve productivity and our economic performance as the global economy recovers.

3.11 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE FULL COSTS ASSOCIATED WITH ATTENDANCE AT BRITISH POLITICAL PARTY CONFERENCES IN 2013:

Question

Will the Chief Minister provide Members with a detailed breakdown showing the costs, per individual, for Ministers and civil servants to attend the British political party conferences in 2013?

Would the Chief Minister further indicate the duration of each stay at each party conference, the hotel, flight and entertainment costs for each person who attended the conferences and whether any participants were accompanied by their spouses or partners?

Answer

Ministers attended all three party conferences where they were able to meet MPs (Members of Parliament), Lords, MEPs (Member of the European Parliament) and diplomatic contacts. They received a positive reaction and attendance formed an important aspect of on-going engagement with the United Kingdom government and opposition.

The cost of travel, accommodation and accreditation for those attending all three party conferences comprised a total of £20,228.

The cost of hosting an exhibition stand and a fringe event at the Conservative conference was £35,235. This ensured the opportunity to disseminate the results of the Capital Economics report demonstrating the value of Jersey to the UK to approximately 12,000 delegates attending the conference.

A breakdown of participants and the costs of attending each conference are provided below.

Individual Ministerial travel, accommodation and entertainment expenses will be provided to the States Assembly as part of the normal reporting process. No participants were accompanied by their spouses or partners.

Liberal Democrat conference

The Minister for External Relations, Treasury & Resources Minister and 2 officers attended the Liberal Democrat conference in Glasgow from 15 to 18 September. The costs for attending the conference came to £6,127.

This comprises accreditation (£2,740), accommodation (£2,145) and travel (£1,242).

Labour Party conference

The Treasury & Resources Minister and 2 officers attended the Labour Party conference in Brighton from 22 to 25 September. The costs for attending the conference came to £5,055.

This comprises accreditation (£1,485), accommodation (£2,775) and travel (£795).

Conservative Party conference

The Chief Minister, Treasury & Resources Minister and 3 officers attended the Conservative Party conference in Manchester from 29 to 2 October.

The costs for attending the conference came to £9,046.

This comprises accreditation (£1,650), accommodation (£5,660) and travel (£1,736).

3.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE JERSEY DENTAL FITNESS SCHEME:

Question

Will the Minister for Social Security inform Members what progress, if any, has been made in reviewing the Jersey Dental Fitness Scheme and the Westfield Dental Scheme for over 65's in the light of the commitment to do so in response to SR.12/2010 ('Review of Dental Services') and his

own commitment, given to the Assembly on 6th December 2011 “...I will undertake to ensure that 2 issues identified by the Scrutiny Panel review of dental health services will be prioritised within my departmental business plan for 2012” and “ to review the provision of assistance with dental costs under both these schemes during 2012” and if none, will he state why?

Will he further state whether he intends to put funded measures to address these issues into his business plans for 2014, if necessary using some of the £13-million underspends his department has recently identified and, if not, why not?

Will he also state what actions, if any, he will take in 2014 in the area of access to primary health care under the objectives outlined in the M.T.F.P. (Medium-Term Financial Plan) 2013-2015 in key objectives 2 (iv) and 3 (vi)?

Answer

Since the statement made at the end of 2011, the Assembly has approved P.82/2012 - Health and Social Services: A new way forward, which endorsed the following action:

“(b) to request the Council of Ministers to co-ordinate the necessary steps by all relevant Ministers to bring forward for approval –

...(ii) proposals to develop a new model of Primary Care (including General Medical Practitioners, Dentists, high street Optometrists and Pharmacists...”,

Whilst, as Minister for Social Security, I remain responsible for the provision of tax funded benefits to support dental costs to teenagers (Jersey Dental Fitness Scheme), those aged 65 and above (65+Westfield health scheme) and low income groups (Income Support special payments), any review or change to these benefits should now be considered in the context of the more general review of primary care that is taking place as part of P.82/2012.

However, I can confirm that the terms and conditions of the Jersey Dental Fitness Scheme are currently being reviewed and as soon as this review is concluded I will announce the changes and lodge for approval by the States any consequential legislative amendment/s.

The departmental 2013 Business Plan includes the following two objectives:

“PR.21 Review access to Income Support services for older residents and implement operational changes as necessary.”

PR.22 Prepare and seek approval for primary legislation in respect of Food Costs Bonus and Cold Weather Bonus, currently enacted through triennial regulations.”

As part of these actions in respect of improving access to benefits available to older residents, access to the 65+ Westfield health scheme will also be reviewed.

Members will be aware that it is intended to allocate the anticipated underspend in the 2013 Social Security to the Long-Term Care Fund, allowing the new long-term care benefits to commence in July 2014, in advance of LTC contributions which will not be collected until 2015.

The Medium-Term Financial Plan includes the following:

Social Security Department key objective 2: *Protect Islanders from the impacts of low income.*

Social Security Department key objective 3: *Adequate income for old age, affordable for our children. Assist older Islander to maintain standards of living by means that are financially sustainable for future generations.*

Both headings include the same sub-objective: (2(iv) and 3(vi)):

Health Service Reforms include support to low income groups and those with long term conditions to enable them to access health services, including primary care

As noted above, the Council of Ministers has been tasked with bringing forward proposals for sustainable Primary Care and the Social Security Department is supporting the delivery of this review. In particular, the Primary Care Review has been designed to include a specific piece of work in respect of access to primary care services for low-income groups.

3.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING REDUNDANCY PAY AND INCOME SUPPORT:

Question

Further to his response to a written question on 24th September 2013 when he stated that *'there are no situations where household income is treated as capital for Income Support purpose'*, will the Minister explain why, when I posed a similar question to one of his Income Support (IS) Officers, I was informed that *'Redundancy pay is treated as capital. Pay in Lieu of notice is treated as income'*?

Will he state how 'severance pay' which, like redundancy pay, is usually based on length of employment and can be defined as 'not the same as termination pay, which is given in place of the required notice of termination of employment' is treated for IS purposes?

Will he also state how many cases of loss of employment have come before IS Determining Officers where the employee's final payment has been categorized respectively as a 'redundancy', 'in lieu of notice' or 'severance' payment by the employer?

Notwithstanding his previous answer on guidelines for income/capital, will the Minister reveal those training guidelines or procedures for IS officers, whether technical or otherwise, which relate to the treatment of final payments for employees dismissed from their employment?

Answer

The Income Support system requires working age adults to support themselves through paid employment, whenever possible. Wages earned by an Income Support claimant are subject to a disregard of a total of 26% to ensure that any one receiving Income Support is better off if they are in employment.

Direct payments made by an employer to an employee who is claiming Income Support are treated as earned income against the Income Support claim.

The only exceptions to this are:

1. Payments made because employment has ended through redundancy - In this case the redundancy payment is treated as a capital receipt on the claim of the ex-employee
2. Payments by an employer for expenses wholly, exclusively and necessarily incurred in the performance of the employment - payment is completely disregarded
3. Payments by an employer into an occupational pension scheme for an employee. - payment is completely disregarded

In a redundancy situation, the final payment to the employee is likely to be made up of a number of separate amounts. Those relating to unpaid wages, any outstanding holiday pay and payments made in lieu of notice are all treated as earnings. These are allocated to the Income Support claim to cover a period of time after the end of the employment, based on the normal weekly wage of the employee. The redundancy payment itself will be identified as a separate amount on the final payslip and will be exempt from ITIS (up to £50,000) and Social Security contributions.

Under Income Support, an employee is considered to be redundant by reference to the definition given within the Employment (Jersey) Law 2003. If employment is terminated in any other way, any final payment, regardless of how it is described by the employer, will be treated as earnings, and allocated to the Income Support claim in the normal way. The terms “severance payment” and “termination payment” are not used in the Employment (Jersey) Law.

It is not possible to produce statistics analysing the breakdown of payments made at the end of employment, other than on a case by case basis.

As stated in my previous response, Income Support staff use a variety of internal procedures and guidelines. These are technical documents which are not designed for public circulation. The distinction between whether a final payment is treated as income or capital for Income Support purposes has been set out in this written response.

3.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE PUBLICATION OF THE ANNUAL REPORT AND ACCOUNTS ON INCOME SUPPORT FOR 2012 PRIOR TO THE BUDGET DEBATE:

Question

Will the Minister inform Members whether the Social Security Department’s Annual Ministerial Report and Accounts for 2012 and the 2012 Annual Report on Income Support will be made available to Members before the annual Budget debate, and notwithstanding the answer, will he explain why these reports take so long to be published in this or any other year?

Answer

Yes, I can confirm that the Social Security Department’s Annual Ministerial Report and Accounts for 2012 and the 2012 Annual Report on Income Support will be published in October.

My department has made considerable progress in the publication of detailed information on benefits over the last two years. In 2011, a separate annual report was published on Income Support for the first time. This year, a single annual report has been prepared incorporating details of the Social Security Fund, the Social Security Reserve Fund, the Health Insurance Fund, Income Support, Back to Work and other tax funded benefits and services.

I would like to take this opportunity to thank the officers who have worked extremely hard to prepare this new publication which represents a substantial improvement in the information that the Department is able to provide to States Members and the general public.

A document of this nature will always take time to prepare. Once drafted, the final version then requires Ministerial and Treasury signoffs, prior to submission to the Department’s external auditors, PwC, and finally to the Comptroller and Auditor General.

The Social Security Annual Report for 2012 was approved by the Comptroller and Auditor General on 2 October, and will be printed and distributed to all States Members and other stakeholders in advance of the next States sitting.

3.15 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE SALE OF SOCIAL RENTED HOUSING:

Question

Will the Minister state why, in the face of the most recent numbers of applicants for 2 and 3 bed social-rented homes (490 and 291 respectively) he continues to advertise social-rented houses for sale at discounted prices, with the result that several of these properties remain empty despite there being many households living in overcrowded conditions?

Answer

There seems to be a notion that P.6/2007 deferred payment sales have had a negative effect on the amount of social housing available. This is not correct, in fact it is quite the opposite. All of the deferred payment sales have been to social housing tenants. Those tenants could not afford to buy in the private sector and so would have remained tenants. The sale of a home to them represents a tenure change and the impact on the social housing stock has been negligible. £31m has been generated from these sales, all of which has been reinvested in to the stock either to develop new homes or for major refurbishment projects.

Members will recall the Full Business Case (R.15) which supported P.33/2013 sets out that over 20 years some 330 homes will be sold to persons qualifying for affordable housing and specifically states that *'The sale of 330 properties includes 30 sales prior to the commencement of the new Housing Company on 1 July 2014. The proceeds from the sale of properties part fund the stock development and associated borrowing until repaid in year 16.'*

Members will also be aware that the Strategic Housing Unit has now been established to look at Island-wide housing strategy. The Housing Department is not the only provider being required to meet the demand on the Affordable Housing Gateway, the Trusts must and will also play their part. It is the lack of new social housing supply overall that has been stifling the waiting list, not the comparatively small amount of sales.

As I say there has been a lack of new housing supply during the recent economic downturn. However, new rental sites are still being developed, notably at Langtry Gardens (80 units), Le Squez 2c (24 units), Lesquende Phase 1 (35 units) and 2-4 Journeaux Street (9 units). Additional developments which will start shortly include, the Former Le Coin site (23 units), Le Squez 3 & 4 (137 units) and Lesquende Phase 2 (44 units). These developments contain the right mix of homes to meet the needs of current tenants needing to downsize and this will in turn allow existing homes to be utilised better and go a significant way to meeting the needs of those on the Affordable Housing Gateway. There is no room for complacency, more homes are required still and I look forward to debating the proposals in the Draft Island Plan Review in due course, which are essential if we are to meet the demand for social housing that is clearly demonstrated by the Affordable Housing Gateway waiting list and in the Statistics Unit's Jersey's Housing Assessment 2013-2015.

3.16 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE AMOUNTS RECEIVED IN TAXATION FOR THE YEARS 2011 AND 2012:

Question

Would the Minister provide figures for the amount of taxation received from each area of the economy for the years 2011 and 2012?

Answer

Figures are provided below for (i) Company Income Tax and (ii) GST.

(i) Company Income Tax

| Sector | 2011 | 2012 |
|------------------------------------------------------|-------------------|-------------------|
| Financial Sector | 53,339,000 | 59,275,000 |
| Real Estate | 11,942,000 | 12,238,000 |
| Other Business Services | 3,045,000 | 2,575,000 |
| Transport and Communications | 2,815,000 | 2,421,000 |
| Construction and Quarrying | 2,826,000 | 1,092,000 |
| Hotels and Restaurants | 1,106,000 | 714,000 |
| Wholesale and Retail Distribution | 751,000 | 538,000 |
| Agriculture and Horticulture | 373,000 | 358,000 |
| Other Community, Social and Personal Services | 88,000 | 59,000 |
| Manufacturing | 117,000 | 17,000 |
| Health and Social | 48,000 | 45,000 |
| Total | 76,450,000 | 79,332,000 |
| Adjustment for accruals and year of assessment basis | (1,470,000) | 157,000 |
| Corporate Income Tax | 74,980,000 | 79,489,000 |

Notes to Income Tax figures:

The above analysis is only for corporate entities, It does not include partnerships or self-employed.

The industry classification is on a Taxes Office basis. This classification is in the process of being revised to bring it into line with the classification used by GST and other States Departments, in order to provide more consistent reporting.

The classification above is based on the primary activity of the Business, which may not be the main source of tax income (for example, many businesses receive rental income, which is taxed at 20%, whilst their primary income from a trade is taxed at 0%)

In order to be able to report on tax revenues by industry, information is only available based on year of assessment, rather than financial year. Year of Assessment 2011 is almost exclusively recorded in Financial year 2012, and Year of Assessment 2010 is almost exclusively recorded in Financial year 2011.

There are therefore two primary reasons for differences between Year of Assessment basis and Financial Year basis - accrual adjustments and amendments to assessments relating to other years. The net impact of these is shown separately.

It is not possible to analyse Personal Income Tax by area of the economy as a significant element of personal income is unearned, and cannot therefore be allocated to an industry. The comparable figures to the company tax data above are:

Financial Year 2011 £335,818,000

Financial Year 2012 £353,993,000

(ii) GST

| Sector | 2011 | 2012 |
|----------------------------------------------------------------------------|-------------------|-------------------|
| Retail trade excluding trade & repair of vehicles and motorcycles | 18,469,000 | 23,284,000 |
| Wholesale trade, excluding trade and repair of vehicles and motorcycles | 7,192,000 | 8,500,000 |
| Accommodation and food service activities | 6,320,000 | 8,194,000 |
| Construction | 5,138,000 | 5,295,000 |
| Electricity, gas, steam and air conditioning supply | 3,544,000 | 4,542,000 |
| Information and Communication | 3,639,000 | 4,478,000 |
| Trade and repair of vehicles and motorcycles | 3,083,000 | 3,774,000 |
| Professional, scientific and technical activities | 3,067,000 | 3,548,000 |
| Administrative and support service activities | 2,005,000 | 2,362,000 |
| Manufacturing | 1,774,000 | 1,901,000 |
| Real Estate activities | 694,000 | 1,766,000 |
| Arts, entertainment and recreation | 889,000 | 1,114,000 |
| Agriculture, forestry and fishing | 533,000 | 888,000 |
| Transport and Storage | 600,000 | 841,000 |
| Water supply, sewerage, waste management and remediation activities | 540,000 | 739,000 |
| Financial and Insurance activities | 405,000 | 545,000 |
| Mining and Quarrying | 657,000 | 540,000 |
| Other service activities | 221,000 | 285,000 |
| Education | 7,000 | 84,000 |
| Human health and social work activities | 6,000 | 13,000 |
| ISE Status | (37,000) | (36,000) |
| Activities of households as employers; undifferentiated goods and services | (3,000) | (47,000) |
| DIY House builders | 4,000 | (129,000) |
| Charity | (797,000) | (1,032,000) |
| Public administration and defence; compulsory social security | (3,680,000) | (4,100,000) |
| Adjustment for accruals and return basis | 691,000 | 555,000 |
| Total Domestic GST | 54,961,000 | 67,904,000 |
| Import GST | 2,393,000 | 2,901,000 |
| International Service Entity (ISE) Fees - Finance Sector | 8,904,000 | 9,255,000 |
| Total GST | 66,258,000 | 80,060,000 |

Notes to GST figures:

The GST rate changed from 3% to 5% in 1 June 2011 – this is the main reason for the increased income.

The total GST for 2012 relates to the analysis on page 116 of the Financial Report and Accounts 2012.

Negative values are repayments (i.e. the business has paid more GST on its expenditure than it has on its sales, normally because it is making some zero-rated sales and is therefore entitled to a GST refund).

It is important to note that these figures are not directly comparable to other measures such as retail sales figures, for the following main reasons:

- GST includes both revenue and capital spend, so major capital projects can distort return values.
- Not all businesses are GST registered (turnover below threshold).
- Some sales will not have GST applied (e.g. zero rated/exempt sales such as domestic house building and export of goods)

The industry analysis is a modified version of the UK 2007 Standard Industry Classification.

In order to be able to report on tax revenues by industry, information is only available based on the GST return data. A single return can span two years. Returns can also be amended at a later date. There are therefore two primary reasons for differences between Return Year basis and Financial Year basis - the net impact of these is shown separately.

3.17 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE MINISTER FOR SOCIAL SECURITY REGARDING SOCIAL SECURITY CONTRIBUTIONS RECEIVED IN 2011 AND 2012:

Question

Would the Minister provide figures for the amount of Social Security contributions received from each area of the economy for the years 2011 and 2012?

Answer

| | <u>2011</u> | <u>2012</u> |
|-------------------------------------------------------------------|-------------|-------------|
| <u>Class 1 (employees) - Total contributions by Sector</u> | | |
| Retail, Wholesale | £12,609,000 | £12,719,000 |
| Banking, Insurance | £41,125,000 | £45,049,000 |
| Utilities | £2,343,000 | £2,458,000 |
| Agriculture and Fishing | £4,337,000 | £4,283,000 |
| Engineering | £1,185,000 | £1,464,000 |
| Motor Trades | £2,282,000 | £2,386,000 |
| Tourism, Leisure and Catering | £10,225,000 | £10,706,000 |

| | | |
|-------------------------------------------------------|---------------------|---------------------|
| Misc Professional (Legal, Accountancy, IT etc.) | £17,288,000 | £18,618,000 |
| Misc Trades (Glass, Timber, Printing, etc.) | £1,511,000 | £1,478,000 |
| Misc Services (Hairdressing, Cleaning, etc.) | £8,697,000 | £8,816,000 |
| Public Sector (Including Temporary Seasonal Posts) | £35,451,000 | £37,748,000 |
| Educational Services | £1,932,000 | £2,055,000 |
| Private Domestic Service | £1,299,000 | £1,419,000 |
| Medical Services | £3,680,000 | £3,869,000 |
| Construction | £13,480,000 | £12,532,000 |
| Transport and Communications | £3,742,000 | £3,775,000 |
| Sub -Total of Class 1 Contributions | £161,187,000 | £169,374,000 |
| Class 2 (self employed and non-employed) Total | £16,169,000 | £17,518,000 |
| | | |
| Total of Class 1 and Class 2 Contributions | £177,356,000 | £186,892,000 |

Note that an extra 2% contribution payable on earnings between the Standard Earnings Limit and Upper Earnings Limit of £150,000 per year was introduced in January 2012. This contributed £5,121,000 towards the Class 1 total for 2012 and £1,974,000 towards the Class 2 total.

3.18 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE CESSATION OF FREE ANTENATAL CARE:

Question

Would the Minister advise whether antenatal care has ceased to be offered free of charge at the Hospital and, if so, when was this decision implemented and how will families be able to access such antenatal services in the future?

Answer

Antenatal care is still provided free of charge at the hospital.

As a result of White Paper investment, women are now being offered more choice about where they receive their antenatal care.

Following the roll out of a successful pilot scheme, which provided women with the alternative option to receive their antenatal care via a community midwife based in their General Practice, an increasing number of women are now choosing to do.

The shared care with Midwives and GPs in the community, is not replacing Hospital-based antenatal care, but offering women with low-risk pregnancy, a consistency of care between key health professionals, while maintaining the familiarity and convenience of the General Practice setting. There is no charge for midwifery antenatal care carried out in the GP surgeries.

The service provides an alternative, appropriate and convenient option for women, and it has generated excellent feedback from those who have trialled the community-based antenatal care option.

3.19 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE PROPOSED DEVELOPMENT OF THE ESPLANADE AND THE HOPKINS MASTERPLAN 2008:

Question

Will the Minister–

- (a) confirm whether the Policies of the Island Plan requires the States of Jersey Development Company to ensure that their proposed development of the Esplanade for the Jersey International Finance Centre fully complies with the Hopkins Masterplan of April 2008 and the Supplementary Guidance of April 2006;
- (b) inform the Assembly of any agreed changes which have been made to the 2008 Masterplan;
- (c) provide details of the extant consents for the Esplanade development, including the conditions of consent and Planning obligation agreements in force, to ensure the sinking of La Route de la Liberation is fully achieved before the Island Plan reaches its expiry date in 2020; and
- (d) ensure this policy requirement is rigorously enforced?

Answer

It is assumed the question relates to "the Esplanade Quarter" project and not the neighbouring road "the Esplanade".

- (a) Policy BE2: Delivery of the St Helier Waterfront of the 2011 Island Plan provides the principal element of the planning policy framework for the assessment of any planning applications relating to the St Helier Waterfront, including the Esplanade Quarter.

The policy states that the supplementary planning guidance for the St Helier Waterfront, represented by The Jersey Waterfront - Supplementary Planning Guidance, April 2006 and the Esplanade Quarter Masterplan - Supplementary Planning Guidance, April 2008 will be the principal material considerations in the determination of planning applications for the St Helier Waterfront and that applications which accord with the planning framework will be permitted.

- (b) The Minister for Planning and Environment made and published an amendment to the *Esplanade Quarter Masterplan - Supplementary Planning Guidance* in March 2011.

The amendment sought to respond to the emerging demand for commercial office floor space and resulted in some changes to the proposed layout, size, scale and location of the open spaces and buildings in the eastern section of the Esplanade Quarter.

The broad concept of the master plan to provide a new waterfront with streets and squares with a firm emphasis on design quality and place making did not change with this Amendment. The Amendment however made it clear that the sinking of La Route de Liberation would not take place at the start of work on Esplanade Quarter but would now be part of a later phase.

- (c) The extant consents for the Esplanade Quarter are:
 - Planning application PP/2008/1680 was approved in July 2010 and granted outline planning permission for a mixed use development of 620,000 sq ft of offices, 388 residential apartments, 65 self-catering units, winter gardens, boutique hotel, 54,000 sq ft restaurant / retail, public open spaces, 1425 car parking spaces (900 private car parking spaces and 525 public ones) with a new underground road tunnel and other associated road works and landscaping.
 - Planning application P/2009/1462 was approved in February 2010 and granted permission for a scheme known as Zephyrus, comprising 59 residential apartments in five buildings with ground floor commercial space and associated basement parking and storage.

- Planning application P/2012/1141 was approved in August 2013 and granted permission for "Building 4" as an office block of 67,000 sq ft (net) with associated basement and landscaping, plus the temporary relocation of existing car park.

The application PP/2008/1680 and P/2012/1141 as noted above were approved with conditions and both also were the subject of Planning Obligation Agreements, which are available to view on the States of Jersey website. The planning application PP/2008/1680 which was granted consent on July 2010 was the subject of extensive public consultation and was also the subject of a full Public Inquiry. It was a complex scheme which was supported by the independent Inspector whose report in favour of the scheme was endorsed by the former Minister Senator Cohen

Approval of application P/2012/1141 was informed by the SPG of March 2011. The scheme was acknowledged to be compliant with the terms of the SPG and the broad objectives of the Masterplan. The approval also required the submission of a phasing plan prior to the commencement of development, to include the timetable for the sinking of La Route de la Liberation and the balance of the wider Masterplan works.

None of the approved schemes have been implemented and, as yet, the wider 'phasing plan' information has not been submitted to my department. Whilst the Masterplan sets a general vision for the area, it is not the Planning Department which is responsible for bringing forward developments or ensuring their delivery.

The Masterplan sets out the sinking of the road as a later phase of work, after the delivery of new modern office space. There is no requirement for the works to be complete before 2020. The 2008 Master plan is embedded in the 2011 Island Plan and it may also be carried forward into future Island Plan reviews. It is a strategic long-term project.

Although the Deputy only asked for details of extant consents in his question, it should also be noted that other applications have been submitted for the Esplanade Quarter site, and are yet to be determined, specifically:

- Planning application P/2008/1681 was submitted in August 2008, and seeks detailed planning permission for excavation and enabling works to form basement car park, new underground road tunnel and other associated road works and general infrastructural works. This application has not been determined. A financial bond was deemed to be essential to ensure the completion of those works and this key element was never successfully negotiated.
- Planning application P/2013/0993 was submitted on 18 July 2013, and seeks permission for "Building 1" as an office block with associated basement and landscaping, plus temporary relocation of existing public car park. This application is pending a determination.
- Planning application P/2013/1209 was submitted on 28 September 2013 and seeks permission to construct a 520 space underground public car park on three and a half levels with a new public park on the surface. This is pending a determination.

(d) As required under law, the Minister shall grant planning permission for development which accords with the Island Plan. The law also provides the Minister with discretion to grant planning permission that is inconsistent with the Island Plan where the Minister is satisfied that there is sufficient justification for doing so.

In assessing all applications, it is incumbent upon the Minister to have regard to and to weigh the individual considerations that apply to each case and to determine each application accordingly, having set out his justification for doing so.

In this respect, and as the Planning and Environment Minister, I can confirm that I will ensure that the policies of the 2011 Island Plan, and the guidance associated with them, will remain my primary consideration, to be weighed and considered against other matters raised by any proposed development.

4. Oral Questions

Senator P.F.C. Ozouf:

Would it be appropriate for me to ask whether it would be possible after the period of oral questions for the statement on the Budget to be taken in advance of questions without notice, to give Members a greater opportunity than just 10 minutes perhaps to quiz myself and the Chief Minister on the Budget statement?

The Bailiff:

Yes, that seems a sensible suggestion. Do Members agree that? So we will take your statement after the oral questions on notice, but before the oral questions without notice.

Deputy G.P. Southern of St. Helier:

Does that decision mean that we shall have more time to quiz the Minister or not?

The Bailiff:

No. What it means is that you will have the statement, then you will have the normal 10 minutes, but then you will also have 15 minutes to question the Minister without notice, and no doubt some of the questions may relate to his statement.

4.1 Deputy G.P. Southern of the Minister for Social Security regarding updating the Jersey Dental Fitness Scheme:

What progress, if any, has the Minister made on updating the Jersey Dental Fitness Scheme?

Senator F. du H. Le Gresley (The Minister for Social Security):

Members will recall that the major proposition on health strategy, P.82/2012 Health and Social Services, The New Way Forward, was approved by the Assembly towards the end of 2012. That proposition included a commitment to develop a new model of primary care, including general medical practitioners, dentists, high street optometrists and pharmacists. This work is ongoing and the Social Security Department is supporting the Health and Social Services Department in the development of primary care in Jersey, including dental services. The Jersey Dental Fitness Scheme is a good example of an existing co-operation between the 2 departments, with the Health and Social Services Department providing dental services to ensure that children aged 11 and above are dentally fit so that this dental fitness can be maintained by a community dentist. The ongoing cost of the community dentist is then subsidised by the Social Security Department. Against the background of the major Primary Care Review, I am also committed to making a complementary improvement to the Jersey Dental Fitness Scheme and this work is currently underway. As set out in my written answer tabled today, I will return to the Assembly with details of my proposals as soon as they are ready. It would not be appropriate to commit to a timetable today, as both legal and financial issues must be resolved before any firm plans can be brought forward.

4.1.1 Deputy G.P. Southern:

The Minister for Social Security appears to have lost a chunk of time. He refers to P.82 of 2012. He first promised to do something about the Jersey Dental Fitness Scheme as a result of S.R.12 of 2010.

[09:45]

He failed to produce anything by the end of 2011, and at the end of 2011 promised that it would be in his business plan for 2012 and he would deliver a review of the Jersey Dental Fitness Scheme by the end of 2012. It is now October 2013 and still we have seen nothing. Can the Minister for Social Security account for this?

Senator F. du H. Le Gresley:

The timeframe the Deputy has just described includes the time when I was not Minister for Social Security. I was appointed Minister for Social Security in November 2011. The work that developed the healthcare proposal P.82 was developed in 2012 and it is as a result of that that we held back on the full review of dental services. However, we have, as I stated in my opening statement, and we are working on the Jersey Dental Fitness Scheme. I have looked at proposals and as I said, subject to legal changes required, if required, I will be bringing those proposals back to the States.

The Bailiff:

A final question, Deputy Southern?

4.1.2 Deputy G.P. Southern:

Surely, Minister, it is a very straightforward thing to update a scheme that is already in place. It was very useful when it was introduced in 1992. In 1992, the sum paid to dentists monthly for maintaining people at dental fitness was £6 a month. Members might like to hazard a guess as to what it is now, 21 years later. Why? It is £6 a month and completely inadequate.

The Bailiff:

Come to your question, Deputy.

Deputy G.P. Southern:

Surely the Minister for Social Security does not have any legal problems with updating a scheme that has been accepted by the States of Jersey previously?

Senator F. du H. Le Gresley:

If it was only that simple, we would have done it by now. The only thing that the scheme has allowed us to do is to increase the annual disregard for income, which is now in excess of £40,000. We did not have provision in the way the scheme was devised to increase the payment to dentists and it is exactly that which I am obtaining legal advice on as to how we can amend the scheme to improve the contribution that the States of Jersey makes to the dentists.

4.2 Deputy J.H. Young of St. Brelade of the Minister for Planning and Environment regarding the disposal of asbestos:

Will the Minister for Planning and Environment advise whether he considers it vital that the substantial legacy of asbestos-containing materials is safely stored as soon as possible, pending longer-term disposal, and if so, when will he determine the planning application submitted in December 2010 by the Minister for Transport and Technical Services to allow the use of a hazardous waste cell at La Collette, which was engineered and available for this purpose?

Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment):

I consider it very important that asbestos materials are safely stored and managed and that both short and the longer-term solutions are identified and implemented. My department has and continues to work with the Transport and Technical Services Department in exploring options that offer the best way forward. With regard to the T.T.S. (Transport and Technical Services) planning application to store asbestos at La Collette, I have recently received from T.T.S. written confirmation of an amendment to their application. This now confirms that the intended use of the waste storage cell at La Collette would be for a temporary storage solution pending the introduction of the appropriate technologies to treat this waste in a more sustainable manner. Now that I have received this alteration to the application, I can confirm that I will determine the amended planning application as soon as possible following the expiry of the statutory planning application advertisement period.

4.2.1 Deputy J.H. Young:

I am grateful for the Minister's answer, particularly the final part. Could the Minister for Planning and Environment explain though why it has taken almost 3 years from the time of February 2011, when the 2 Ministries consulted on this question, to arrive at what seems a sensible answer now? Why has it taken nearly 3 years?

Deputy R.C. Duhamel:

It has taken this long because of the nature of the application. The application that was delivered to the department in December 2010 was for, and I state: "Construction and operation of an asbestos cell to provide the final disposal of approximately 1,100 to 1,500 tonnes of asbestos, both fibrous and bonded, which is currently stored in approximately 200 ex-shipping containers on La Collette Phase 2 reclamation site. The development will also provide for the final disposal of asbestos arising on Jersey while the cell is open, anticipated to be approximately 9 years." Disposal of asbestos materials does not necessarily represent the best sustainable method or environmental method for dealing with this particular material. The negotiations that have taken place over the intervening period of time have been to encourage the T.T.S. Department to explore options that offer a more sustainable way forward. I am pleased to report that the penny has dropped and they have amended their application to move forward on that basis.

4.2.1 Deputy G.C.L. Baudains of St. Clement:

It seems to me that what the Transport and Technical Services Department are seeking is to move it twice and there could be a danger that once moved into a temporary state it will stay there and no long-term solution will be found. Does the Minister share those views?

Deputy R.C. Duhamel:

Indeed, that was one of my particular worries, which is why I have held out for an amended application to establish beyond doubt and under proper reasonableness that the longer-term solutions will be robustly explored and hopefully implemented.

4.2.2 Deputy R.G. Le Hérissier of St. Saviour:

If the process works and the application is approved, can the Minister for Planning and Environment tell us when we can see movement on this matter?

Deputy R.C. Duhamel:

I have already indicated that following the expiry of the statutory planning application period, I will determine the application. It depends on T.T.S. It is not my department's responsibility to decant the materials from the containers or to place the sorted or unsorted materials into this storage pit.

But we have to be aware that the fundamental difference of opinion has been between the departments on the basis of a long-term disposal route, which would render the site down at La Collette in a toxic dump state for the inevitable future, as opposed to a remediation process, which would still allow for disposal of remediated materials which would not pose similar toxic health or other waste problems.

4.2.3 Deputy R.G. Le Hérissier:

Just a supplementary: could the Minister for Planning and Environment tell us when he will be issuing approval?

Deputy R.C. Duhamel:

When the next Ministerial hearing is convened.

The Bailiff:

Senator Le Gresley, you wanted to ask a question, but it is the policy that we do not normally allow one Minister to question another. It is usually rather friendly, although it may not always be. But I think we must stick to the policy because we do not know in advance.

4.2.4 Deputy S.G. Luce of St. Martin:

What is the earliest possible date that the Minister could determine this modified application?

Deputy R.C. Duhamel:

I think the earliest date is probably 6 to 8 weeks. It may be a little bit longer, but I have not seen the amended application as yet, although I am told it is with the Planning and Environment Department, and an officer will have to write a report in the meantime.

4.2.5 Deputy J.H. Young:

Would the Minister not agree that the public might find it difficult to understand why, notwithstanding all the technical complexities of his very helpful answer, it took 3 years to get an amended application and a letter which allows him to approve this application after 3 years? Would he not say that this is an example of how our Ministerial government system is working in silos and does it really take a question from me to get an answer?

Deputy R.C. Duhamel:

No, I do not think it does, but Members of this House must appreciate that times change and we do have and should have regard to best environmental practice in dealing with our waste materials. Notably, there was a release dated 8th October, Incinerator Bottom Ash set for export. Originally, the A.P.C.R. (Air Pollution Control Residue), and indeed the I.B.A. (Incinerator Bottom Ash), were going to be continued to be placed in pits at La Collette, but times have changed and following work that has been done by the T.T.S. Department, encouraged by my department, we now have 2 suggestions whereby both those materials will be exported for recovery and recycling, not disposal. There is a fundamental difference of approach between the 2 to U.K. (United Kingdom) or other European outfits in order to treat those materials in the best sustainable environmental fashion. Absolutely the same thing applies to asbestos waste.

The Bailiff:

A concise answer, if you would, please, Minister.

Deputy R.C. Duhamel:

I have forgotten what the question was. [Laughter]

Deputy J.H. Young:

Shall I repeat it, Sir?

The Bailiff:

No, I think to remind Ministers of the Standing Order which says answers must be concise and they must be directed to the question. We come next to ...

Deputy K.C. Lewis of Saviour:

A point of clarification. I did say since the day I was elected as Minister for Transport and Technical Services ...

The Bailiff:

I am sorry, Minister, this is question time.

Deputy K.C. Lewis:

It is just clarifying the answer, Sir, but I said I would send it away for remediation.

The Bailiff:

It was not in relation to you and I am sure you can clarify it by an email to Members, if necessary.

4.3 The Deputy of St. Martin of the Minister for Home Affairs regarding the retirement age for Fire and Rescue Service staff:

Given the physical and arduous job that the Fire and Rescue Service staff perform on behalf of Islanders, would the Minister for Home Affairs agree that the current retirement age of 55 is a suitable age for fulltime operational firemen to retire?

Senator B.I. Le Marquand (The Minister for Home Affairs):

The role of a frontline firefighter is physical and can be arduous when there is a major or lengthy incident. The Fire Service is different from other services that I am involved with, because unlike the States of Jersey Police, Customs and Immigration, there are not many desk-type jobs and therefore it is not easy to transfer officers who may no longer be fit across to desk-type jobs. The key issue in relation to the test of fitness is the level of oxygen-uptake of the individual. There have been medical studies on this fairly recently in the U.K. and this varies between individuals as to the starting point when they are young and decreases with age. The U.K. recommended level is 42 millilitres per kilogram per minute, but with an absolute lower limit of 35. There is much debate as to whether 42 is the right limit or not. The opinion of our Chief Fire Officer is that it is possible for firefighters to maintain an adequate level of fitness and work safety to the age of 60 provided that they remain free from injury and disease and provided that they keep fit. However, not all firefighters will succeed in that. The current retirement age is not 55. The current retirement age is between 50 and 55 and the S.E.B. (States Employment Board) proposals are a move to between 55 and 60. With that move, there may be some officers who would be no longer operationally fit before 55 and a provision may need to be made for them to be able to retire before 55 with a pro-rata pension.

The Bailiff:

A supplementary, Deputy? You do not have to.

The Deputy of St. Martin:

That is all, Sir.

4.3.1 Deputy R.G. Le Hérissier:

I think maybe the Deputy of St. Martin has an interest in this question which he may wish to declare, but if I can carry on, I would ask the Minister for Home Affairs, is he fully supporting the S.E.B. move that the pension age be moved from 55 to 60 and would he be prepared to contemplate, for example, transfers to other work within the States as a whole? It seems very limiting to transfer simply within the Fire and Rescue Service.

Senator B.I. Le Marquand:

I just need to correct the Deputy very gently that it is not a retirement age from 55 to 60. It is moving a compulsory retirement age from 55 to 60, because there is a 5-year slot in relation to that. In general terms, I am supportive of it, provided that fair arrangements can be made for firefighters, and in particular, I have highlighted the particular issue of a difficulty which may occur if a firefighter is unable to retain the necessary fitness level before 55 and therefore is forced to retire effectively because he no longer can do the job. He is not being retired on health grounds in the normal way and there is going to be a gap before he receives his pension. That is why I said that I think there needs to be some consideration of this and I certainly will be in discussions with the S.E.B. on this kind of issue.

4.3.2 Deputy R.G. Le Hérissier:

Just to clarify, Sir, that the Minister for Home Affairs is supportive of the move to reform the system?

Senator B.I. Le Marquand:

Provided there are appropriate safeguards. This one cuts both ways, because there have been those arguing for some time that it was unfair on officers who were still fit that they were being forced to retire at 55.

[10:00]

I am told in the notes which I have from the Chief Fire Officer that he has on occasion obtained an extension for some people to 57, so you have 2 different views here. There are those who would want to enable fit officers to continue later and there are those who are concerned about the effect on pensions.

4.3.3 The Deputy of St. Martin:

Would the Minister for Home Affairs give an undertaking to maintain the current retirement age?

Senator B.I. Le Marquand:

I am sorry, Sir, I did not hear that. I am undertaking to ...

The Bailiff:

Would you give an undertaking to retain the current retirement age?

Senator B.I. Le Marquand:

It is not my decision. It is an S.E.B. decision.

4.4 Deputy R.G. Le Hérissier of the Minister for Treasury and Resources regarding access to the network by J.T:

Could the Minister for Treasury and Resources, as the shareholder representative, confirm that condition 2 of the agreement to fund the Fibre Optic Project, namely that access to the network be offered on a fair, equitable and transparent and auditable basis, has been fully met by J.T. (Jersey

Telecom) and would he identify how many other operators have signed up and how many homes are now connected?

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

The Deputy will recall that an earlier question about the 8 conditions for the infrastructure investment was answered on 10th September. I am happy to reconfirm that I am advised that all of the 8 conditions have been fully complied with, including condition 2. Further, the provision of appropriate and workable products to enable operators to compete is covered under J.T.'s detailed regulatory obligations with appropriate oversight from C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities). Regarding operators that have signed up, only Batelco has its internet-link in place with J.T., but has to date only connected a handful of their subscribers. I am also aware that other broadband providers, including Newtel, could have put this interconnect link into place but Newtel has not elected to do so. So I am further advised that J.T. is keen to have all operators sign up and offer fibre-optic services. J.T. operates as a commercial company and it is not in a position to force competitors of course to sign up, nor should it be expected to subsidise competition.

4.4.1 Deputy R.G. Le Hérisier:

The Minister for Treasury and Resources did not give the number of people overall connected, but perhaps we could come back to that. Would the Minister confirm that no major operator has signed up after what is nearly 3 years and that it was an absolute travesty to start this system without C.I.C.R.A. having set the conditions and having played a strong role? Would he not confirm that this really is straining the incredulity of people? Is he there to protect J.T.? Is he there to protect the infrastructure operator?

The Bailiff:

That was several questions and I think you would ... yes.

Senator P.F.C. Ozouf:

J.T. is to announce later today that they have now reached the 5,000 number of homes connected and that is incredibly good news. In terms of competition, the Deputy says: "You should have simply left all of these infrastructure investments until the operators would have come to some agreement" and that means that we would not probably even now be rolling out fibre-optic and being able to send the message out about Jersey's community being connected to fibre-optic in such an accelerated way to other places. There are issues about the way that J.T. deals with competitive issues and that is an issue for C.I.C.R.A. C.I.C.R.A. has the powers, they have the resources and they must ensure that J.T. is acting properly, which I think they are. My job is not to protect J.T., my job is also to look at the overall Island interest and ensure competition works, but J.T. is not disadvantaged.

4.4.2 Deputy R.G. Le Hérisier:

Would the Minister for Treasury and Resources not acknowledge that his final statement is sadly very far from what is happening? Would he not accept, as we have seen with a recent court case over wholesale line-rental, we saw over ...

The Bailiff:

One moment, Deputy. That is a case in court at the moment.

Deputy R.G. Le Hérisier:

As we saw with a court case over number portability, where large amounts of money were spent by J.T. to drag out an issue and which have cost subscribers an enormous amount of money, would the

Minister for Treasury and Resources not accept that there is not proper regulation? There are no telecommunication officers at the Jersey Competition Regulatory Authority at the moment, for example. This is all dragging out. When is he going to get some action?

Senator P.F.C. Ozouf:

I think the Deputy may be asking the wrong Minister. I have responsibility for the shareholding responsibilities, but I know if it was my good friend, the Minister for Economic Development, he would say that C.I.C.R.A. does have the resources. While they do not have officers employed and we have simply in the last few weeks had debates about public sector employees going back, C.I.C.R.A. is better to bring in experts with experience of how telecom operators frustrate competition and deal with competitive issues that way. I have confidence in J.T., I have confidence in C.I.C.R.A. and I have confidence that ultimately, as poacher turned gamekeeper, having flipped from that position to this one, low competition, low barriers to entry work in the consumers' interest. There is a constructive tension going on and that is healthy to see.

4.5 Deputy J.A. Martin of St. Helier of the Minister for Transport and Technical Services regarding the proposed access route into the building site of the new police station on the Green Street car park site:

Would the Minister for Transport and Technical Services inform the Assembly whether he has held discussions with Jersey Property Holdings regarding the proposed access route into the building site of the new police station on the Green Street car park site, and if the access will be off La Route Du Fort, what alternative route plan, if any, will be implemented in order to manage traffic in this key area while the building works take place?

Deputy K.C. Lewis (The Minister for Transport and Technical Services):

As with all street works and projects, it is for the developer to present traffic-management proposals for T.T.S. approval. This instance, there is also a specific planning condition on the police headquarters planning permit, which requires the approval of the Minister for Planning and Environment in relation to arrangements for a contract of parking, access and deliveries before the development can begin. This approval will be made in conjunction with officers of my department. Preliminary meetings have been held between Jersey Property Holdings and T.T.S. to discuss traffic constraints. Construction phasing and access details will now be developed by Jersey Property Holdings and the successful contractor. Jersey Property Holdings has started this process with the recent issuing of a prequalification questionnaire to the local industry, which requests responses about the site management and access. While some disruption is inevitable from any development of this scale, I can assure the Assembly that my department will ensure that satisfactory arrangements will be put in place in advance of the development taking place.

The Bailiff:

A supplementary, Deputy.

Deputy J.A. Martin:

Sorry, I did not hear the Minister, whether he confirmed the actual access into the building site will be off La Route Du Fort. Have they come to this discussion yet?

Deputy K.C. Lewis:

Not to my knowledge. These discussions are ongoing, I believe.

4.5.1 Connétable P.J. Rondel of St. John:

Given the concern raised by many at the time of the debate of the new police station in Green Street, T.T.S. came up with plans for extending the car park on top of Snow Hill. Could the Minister inform us if this has now been shelved in relation to extending the car park in Green Street itself, or the Green Street car park?

Deputy K.C. Lewis:

No. There will be another half level put on Green Street car park, and this has been put forward by Property Holdings.

The Bailiff:

But I think the question was about Snow Hill, Minister.

The Connétable of St. John:

It was about Snow Hill, this reference.

Deputy K.C. Lewis:

I beg your pardon. No, that instruction was given to me by the States Assembly to bring forward plans, but that has to be progressed.

4.5.2 Deputy T.M. Pitman of St. Helier:

Sorry, can the Minister just clarify so I can understand it, will additional parking be provided before the actual work starts on the police station itself, because that is going to be a key issue.

Deputy K.C. Lewis:

I am not sure at the moment. I am not the sponsoring Minister for this, but I believe the other level of car park will either be built prior to or simultaneously with. I am not sure of the exact detail.

4.5.3 Deputy T.M. Pitman:

Can the Minister tell us when he will be able to answer that question?

Deputy K.C. Lewis:

As I say, I am not building the new police station. I just oversee car parks, which Jersey Property Holdings are developing, so it would be better to ask them.

4.5.4 Deputy M. Tadier of St. Brelade:

Is the Minister telling us that there is no dialogue been going on between himself and Jersey Property Holdings and is this another example of the silo-mentality which we so often hear about within the Council of Ministers?

Deputy K.C. Lewis:

No, but plans are still being developed.

The Bailiff:

Deputy Martin, a final question?

4.5.5 Deputy J.A. Martin:

As the Minister is the Minister for Transport and Technical Services, I would like him to assure the House that before the building does take place ... he may not think it is his job, but it will fall on his head if we have a gridlock like we do at the moment, losing one major artery into town and out of town. Can he assure the House that he will let us know the plans, if it is not here, but by email or letter, the alternative access into town via La Route Du Fort?

Deputy K.C. Lewis:

There have never been any plans to block off Route Du Fort, to my knowledge, but there will be an access road built. I would imagine there would be an access road built there so the car park cement can be poured from the south-side, but I do not have the exact details at the moment. As I say, plans are still being formulated.

4.5.6 Deputy J.A. Martin:

A supplementary, Sir. I would just like the Minister to assure me that he will ... I am not really asking what is in his imagination. I would like to know that he will absolutely assure the House that we will know the alternative access, not an access route, if half of this road is blocked, what is the alternative plans from the Transport and Technical Services Department. to manage traffic?

Deputy K.C. Lewis:

We have tried to minimise traffic disruption whenever possible. There will be disruption. We are building a police station there, so there will be times when services will be put in and access will need to be maintained, but Transport and Technical Services Department officers are working with all other departments to minimise any disruption.

4.6 Deputy M.R. Higgins of St. Helier of the Attorney General regarding evidence given under oath in the 2008 Royal Court Curtis Warren abuse of process hearing and a written statement to the Operation Invicta investigation:

The question was originally directed to the Solicitor General and as he is answering it, am I entitled to paraphrase it slightly?

The Bailiff:

No, I should ask the question as stated.

Deputy M.R. Higgins:

Okay. How does he reconcile evidence given by Her Majesty's Solicitor General under oath in the 2008 Royal Court Curtis Warren abuse of process hearing that he was not misled by any of the police officers involved in the investigation, later repeated in a Privy Council statement, with a written statement to the Operation Invicta investigation alleging that the Law Officers' Department were misled by the States of Jersey Police?

Mr. H. Sharp Q.C., H.M. Solicitor General:

The Privy Council judgment records that the police produced a document during the course of their 2007 investigation into Mr. Warren that contained inaccurate information; see paragraphs 18 and 53. That document was provided to the Law Officers' Department. When I gave evidence in 2008, the issue was not whether or not I had been misled by the document, but rather what was the reason for the inaccuracy it contained: Was it the result of innocent error or something else? Ultimately, I am not the witness who can answer that question. It is a question for the author, not the recipient, but in evidence I was asked nonetheless for my initial reaction when I was first told that the document that I had received was inaccurate. What I said in 2008 is recorded on the court transcripts as follows: "I did not think that anyone was trying to mislead. I just thought it was poor draftsmanship. I had rather imagined it was some officer lower down the ranks who had just got their facts in a muddle. That is how it struck me at the time." More recently, in 2011, I provided a statement to the Operation Invicta investigation on the same topic. I said this, and I quote: "I thought that the wording was sloppy, but I never believed at the time that I had been deliberately lied to. I thought that the information was probably the work of a very junior officer." In my view,

there is no difference between these 2 pieces of evidence. This question also appears to suggest that my evidence formed part of the Privy Council judgment. It did not. In fact, the Privy Council considered my evidence to be irrelevant to the issues relating to the abuse of process argument, as had the Court of Appeal and the Royal Court. In conclusion, my evidence, which was not and is not relevant to the abuse of process decisions, has not changed.

[10:15]

4.6.1 Deputy M.R. Higgins:

Can the Solicitor General tell us whether he does believe now that he was misled by the officers or anyone else in the Law Officers' Department was misled by the officers?

The Solicitor General:

I have just read out what I said in 2008 and what I said in 2011. There are 2 issues here. One was whether or not the document contained an inaccuracy. It clearly did and there cannot be any doubt about that. As to what I believe, which is frankly not relevant to what the author thought they believed, I have said already in my answer what I thought. I thought it was innocent error.

4.6.2 Deputy M. Tadier:

In the first answer he gave, the Solicitor General said he did not believe at the time that he was misled, which does leave the door open to the question which Deputy Higgins asked: So what does he think now? It implies that the Solicitor General may well think now, after having had time to reflect, that he was misled. Can he confirm what his current opinion is at this time?

The Solicitor General:

My evidence has not changed. I read out a part of my 2011 statement to the Assembly just now to assist. In fact, in that 2011 statement I say on 2 separate occasions that I did not believe that there was a sinister reason for the inaccuracy.

4.6.3 Deputy T.M. Pitman:

Can I ask the Solicitor General what implications are there then for the unfolding of this particular court process? I fully accept his answer, obviously, if something that he thought was quite innocent but is now revealed to be probably not innocent and certainly inaccurate, what implications are there? Are there any retrospective steps that can be taken to rectify that matter?

The Solicitor General:

All I can say is that the Privy Council considered the document in question. They noted that it gave, to quote them exactly, "a false impression" but as the Deputy and other States Members will know, they decided the abuse of process in a particular way so it is difficult to see why this issue needs to be revisited now. It has been fully ventilated through the criminal court process.

4.6.4 Deputy M.R. Higgins:

Can the Solicitor General tell us then why his department were supportive of the disciplinary hearing which Operation Invicta led to, where these officers were going to be disciplined for their actions? There were discussions between the Law Officers' Department and the Chief of Police and Deputy Chief of Police. Why were you supportive of the disciplinary action?

The Solicitor General:

The disciplinary process is a mile away from the question I was originally asked. But all I will say, and as I said in my original answer, is the reason for the inaccuracy in the document is a question for the author of the document and not for me.

4.7 Deputy G.C.L. Baudains of the Minister for Transport and Technical Services regarding the creation of legislation addressing 'death by careless driving':

Further to the response given by the Minister for Home Affairs to my written question on 19th March 2013, would the Minister provide an update on the progress, if any, which has been made towards the creation of legislation addressing 'death by careless driving'?

Deputy K.C. Lewis (The Minister for Transport and Technical Services):

My department has been contributing to a Working Group chaired by the Minister for Home Affairs with representatives of the States and honorary police, the Magistrates and Law Officers' Department. The Group has reviewed all penalties relating to traffic offences and as part of that review, proposals have also been considered for the introduction of an offence of causing death by careless driving and a potential offence of causing serious injury by careless driving. My department has written to the Attorney General asking for legal advice on these potential new offences and the Working Group will conclude its recommendations for my consideration when that advice has been received.

4.7.1 Deputy G.C.L. Baudains:

Would the Minister for Transport and Technical Services agree that it is the result of his department combining this potential legislation with other issues that is creating a delay?

Deputy K.C. Lewis:

No, I am trying to progress this as soon as possible.

4.7.2 Deputy M. Tadier:

Will the Minister agree to circulate by email the full composition of the Group that you just talked about?

Deputy K.C. Lewis:

If it is appropriate to do so, sure. I have no problem with that at all.

4.7.3 Deputy G.C.L. Baudains:

In relation to his previous answer, I was advised that the delay was in his department. Can he assure us that, first of all, it is not and also when he hopes that this legislation will come before the Assembly?

Deputy K.C. Lewis:

Yes, we wrote to the Attorney General on 5th August for his consideration. We await a reply and we will proceed as soon as possible.

4.8 Deputy T.M. Pitman of the Chairman of the Privileges and Procedures Committee regarding a review of the current operation of Standing Order 109(7):

Would P.P.C. (Privileges and Procedures Committee) agree to review the current operation of Standing Order 109(7) which relates to the removal of names of individuals named within the course of States questions or debates to ensure it is operating adequately?

Deputy J.M. Maçon (Chairman of the Privileges and Procedures Committee):

Standing Order 109 is only used when Members themselves have breached Standing Orders by naming the individual during a States sitting. Members should take it upon themselves to abide by

Standing Orders so that intervention by the presiding officer under Standing Order 109 is not required. Standing Order 109 is not used frequently and the Privileges and Procedures Committee has no evidence that it is not operating adequately. May I take this opportunity to remind Members of Standing Order 104 which is: "Contents of speech 2.1, that States Members must not refer to any individual who is not a member of the States by name, unless use of the individual's name was unavoidable and of direct relevance to the business being discussed." Finally, as the Deputy will be aware, as he sat on the Sub-Committee looking at Standing Orders, we have just had an extensive review into Standing Orders and from that, this particular Standing Order was not highlighted for review. Given that quantum of work, the Privileges and Procedures Committee has no intention to further review this particular Standing Order.

4.8.1 Deputy T.M. Pitman:

Perhaps the Chairman has a short memory if he has no evidence. But how can it be right that we have a brave man, former S.I.O. (Senior Investigating Officer) Lenny Harper, who tried to uncover decades of child abuse concealed by the State, forever slurred on Hansard as an incompetent maverick? Yet, on the other hand we have individuals with serious questions to ask about the undermining of child abuse investigations, including one convicted criminal whose names are removed?

Deputy J.M. Maçon:

All I can say is that we have Standing Order 104, which states that we should not be referring to named individuals unless there is no other way of expressing that within this Assembly.

Senator P.M. Bailhache:

May I raise a point of order? The Deputy used a name in the course of that last question to the Chairman of the Privileges and Procedures Committee, which, from the Standing Order that the Chairman has read out, seemed to me to be unnecessary and I ask that you exercise your discretion to delete the name from the record of the Assembly.

The Bailiff:

The context in which the Deputy asked it was not critical of that individual so I do not see it as necessary to demand its removal.

Senator I.J. Gorst:

Could I ask for clarification of the order as it seems ...

The Bailiff:

No, I do not think so. It is a matter for the Chair to pick up on these matters on the whole and the Chair endeavours to hold a balance. Sometimes, as the Standing Orders say, it is unavoidable to give names in order to make sense of it. Other times it is not. The Chair has a judgment call. We do not want a prolonged debate with every single Member popping up to say that they think it should be exercised in a particular way.

4.8.2 Deputy M.R. Higgins:

I was going to ask the Chairman of Privileges and Procedures Committee, there is a bit of a nonsense around this whole area because, for example, at Scrutiny hearings, we can get evidence from members of the public whose names are published but officers hide behind titles. We are not allowed to name the officers, so in many cases they commit all sorts of errors and escape because no one knows who it was or who was in place at the time. Do you not think it is crazy that, on the one hand, members of the public who give evidence are quoted and can be criticised for their evidence and yet officers cannot?

Deputy J.M. Maçon:

While I acknowledge that there may be an inconsistency there, nevertheless it is for Scrutiny to decide how Scrutiny's protocols are decided. If the Deputy felt that that should be changed then the first port of call would be to have a dialogue with the President of the Chairmen's Committee. As I say, it is for Scrutiny to decide how Scrutiny operates.

4.8.3 Deputy T.M. Pitman:

I know that 2 Senators over there are very sensitive about child protection failings. However, I would like the Chairman to deal with the issue. I used that name because he is forever slurred on Hansard. He has not been found guilty of any offence and yet other people, who do have questions to answer, always have their names removed at the order of the Chair. Will he not, with his Committee, investigate getting some consistency in this? That is all I wish to know.

Deputy J.M. Maçon:

What I will do is I will have a further conversation with Deputy Pitman to understand what he means by what type of investigation he would want as I am not entirely sure how we should proceed or what outcome is desired, but I would not want to reject something totally without fully understanding what is being asked. I would make that offer to him.

4.9 Senator S.C. Ferguson of the Minister for Health and Social Services regarding negotiations with staff in the pathology laboratory:

Would the Minister for Health and Social Services outline the negotiations which have taken place with staff in the pathology laboratory and advise whether the significant number of recent press releases has been considered appropriate to this process?

Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):

My Assistant Minister will answer this question.

Connétable J.M. Refault of St. Peter (The Assistant Minister for Health and Social Services - rapporteur):

First and most crucially, I must point out that patient care and safety is the utmost importance in everything that we are doing in Health and Social Services. Our main priority in all our dealings with our staff is to make sure that patient care and safety is never compromised. Senator Ferguson's suggestion as a question and I quote: "A significant number of recent press releases has been considered appropriate to this process." Firstly, I must state that the issuing of press releases while going through any negotiation with our staff is not something that we would normally do. However, in this case, the department had a public duty to respond to the media after being approached by several sources on the back of information and, more importantly, misinformation that they had been given. We could not stand back and allow the public to be frightened by such inaccurate stories and implicit threats about public safety. We therefore issued one, just one, press release on 17th September 2013 and not a significant number as suggested in this question, in order to reassure the public with the truth about our out-of-hours pathology services and their safety. In terms of the ongoing negotiation with staff in Pathology, I could detail every meeting, exchanges dating back to the start of the current negotiations in 2011. However, the detailed timeline runs to 6 pages and would take far too long for me to recount here in this Assembly this morning. What I can say is that since the current agreement was extended in June 2012, when the Pathology staff were given a full 14 months' notice that the agreement would not be renewed in its existing form, there has been a continuous dialogue, discussion and attempts to resolve this matter.

4.9.1 Senator S.C. Ferguson:

Would the Assistant Minister like to explain why the overtime position has arisen and would he perhaps not consider that it is a failure of management?

The Connétable of St. Peter:

The situation goes back to 1998. This out-of-hours duty is not a contractual obligation. There is no obligation on staff to do it. They entered into the agreement in 1998 on the basis they would volunteer to do it for a certain amount of money. That was set up in 1998 as a 3-year agreement and has been renewed 3-yearly post then. Certainly in more recent time, which I am more aware of, each time it has been tried to be renegotiated, the staff have reminded management that it is not a contractual obligation and they could not guarantee the out-of-hours service if we were to tamper at all with monies that were being offered. That is why we are in the position we are in today. Is it a failure of management? One could say possibly yes, but possibly no because at the previous times the contingency that we have currently put in place was not considered.

[10:30]

Senator S.C. Ferguson:

Is the Assistant Minister not aware that ...

The Bailiff:

One moment, Senator. You have asked your 2. I will see if other Members want to ask any questions and then come back to you. Deputy Southern.

4.9.2 Deputy G.P. Southern:

Could the Assistant Minister state whether negotiations or discussions are still continuing and does he not feel that the importation of these members of staff is rather a heavy-handed approach to take?

The Connétable of St. Peter:

I would like to take the second part first. No, it is not heavy-handed. It is the only way that I can guarantee and the Minister for Health and Social Services can guarantee the safe delivery of services required by the people of Jersey. Is the door still open for negotiation? The staff have refused and rejected our final offer. We are all still waiting to hear whether they will come back with an improved offer from their side.

4.9.3 Deputy G.P. Southern:

If I may, this is rather reminiscent of the S.E.B.'s approach to negotiations anyway. They make final offers and then withdraw from negotiations.

The Bailiff:

Is that a question?

The Connétable of St. Peter:

The Health and Social Services remain ready to receive any offer which improves the position to a level at which the service would cost in any other jurisdiction. If that offer came today, the locum would be out on the first flight out tomorrow morning.

4.9.4 Deputy S. Power of St. Brelade:

Could the Assistant Minister confirm that the point at which negotiations with the Pathology Department staff is now less than the contingency for flying in locums and pathology people from the U.K. and is he able to confirm to the Assembly that he will review the situation?

The Connétable of St. Peter:

The current cost of the locums is less than the gross cost of continuing with the other arrangements. There are 3 elements to the costs that we are currently providing to the on-Island staff. One is the headline figure of the actual pay, which is in excess of £600,000 per annum. Another element is the time off in lieu they get the following day, which, when we factor that in, puts another £60,000 on top of that. On top of that there is mileage allowance for every time they are called in which accounts, in the last 12 months, to about another £12,000. The offer currently on the table is not less than the gross cost of the current locums.

4.9.5 Deputy M.R. Higgins:

I may have misheard the Assistant Minister but I do not think I did. He implied that it was the only way he can get a safe service, by bringing these people in from outside. Is he saying that the service before was not safe? Is he saying that we have to bring people in from outside to deliver a safe service or that the others were refusing it?

The Connétable of St. Peter:

I think as the Deputy posed his question, the others were refusing it. Basically the situation is they were not refusing it but they were not guaranteed to carry out the service, therefore it was the only safe option we had, given that they had stated they could not guarantee the continuation of providing out-of-hours services.

4.9.6 Deputy M.R. Higgins:

Is the Assistant Minister just saying it comes down to pay? We were not prepared to pay them and therefore they would not guarantee they would carry on doing the service. That is why it would have been unsafe. Is that not correct?

The Connétable of St. Peter:

No, it is not correct. We are quite prepared to pay them the true cost of the service. The amount we are paying now is 3 times as high as the service would cost in any other jurisdiction. We will pay them what is right for the job that they are doing. What we are not prepared to do is to continue to pay them something in the region approaching £500,000 per annum of monies which should be going in to fund patient care and treatments that people out here in Jersey are waiting for today.

4.9.7 The Connétable of St. John:

Could the Assistant Minister give us information on how many locums are bought into the Island weekly or annually across all areas of the medical profession, please? **[Laughter]**

The Bailiff:

I think we can safely say that that falls outside the purview of the ...

The Connétable of St. John:

You are cutting me off at the knees again, Sir.

The Bailiff:

I am so sorry, Connétable.

The Connétable of St. Peter:

If the Constable wanted to put a written question in we can provide him with that answer.

4.9.8 Senator S.C. Ferguson:

Will the Assistant Minister confirm that the cost of overtime has risen because of the increase in workload and that the cost of the overtime offer made by the department, the workforce, is some 70 per cent of the total cost whereas the cost of the locums is some 83 per cent of the total cost, therefore a real effort is being made by the staff. They have coped with an increase in workload, which is why their overtime has gone up and they have made an offer which is significantly less than the current overtime cost. Why are they being ignored? Why is nobody communicating with them?

The Connétable of St. Peter:

I must refute the Senator's last statement. They are not being ignored and they are being communicated with. I am sure you will not allow me the time but I can read out the time and date of every single meeting, which runs to 6 pages, including this year. I am afraid the Senator is wrong to make that assertion. I would hope she would have the good grace to withdraw that comment. The figures she provided are not the figures we have in the department. I must point out this is not overtime. This is on-call. This is payment for being on-call. It is not overtime and they get paid whether they get called in or not. They do not have to work as they would do on an overtime basis.

4.9.9 Senator S.C. Ferguson:

I think, if the Assistant Minister would like to check this and come back to the Assembly, I think he will find that a proportion of the money that is paid to these staff is tied in with the increase in workload. This is one of the things that was being negotiated with the previous hospital director and was included in a report which went to the S.E.B. some 2 or 3 years ago. But the staff are not being communicated with and they would appreciate that. I would like the Minister to note this feeling by the staff and perhaps he would pay attention to it in the further negotiation.

The Bailiff:

Are you going to ask a question then, Senator? **[Laughter]**

Senator S.C. Ferguson:

Yes, I was. Where did we start on that one? If the Minister would check ...

The Bailiff:

You have said plenty already. A brief question for the Connétable.

Senator S.C. Ferguson:

If the Minister would just check he will find that a significant portion of the overtime or the extra payment is due to the increase in workload and would he perhaps like to check on that before he comes back to the Assembly with comments on it?

The Connétable of St. Peter:

I am afraid my answer is going to have to be no and no. Thank you.

4.10 Deputy G.P. Southern of the Minister for Housing regarding the continued sale of social rented housing:

Can the Minister for Housing justify the continued sale of social rental housing in the face of pressure on the waiting list for social rented housing?

Deputy A.K.F. Green of St. Helier (The Minister for Housing):

I think I covered most of this in the written response to Deputy Southern's question this morning so I apologise for the repetition. I would like to dispel the myth that surrounds deferred payment sales. They have not and do not have a negative effect on the wider housing market or the Affordable Housing Gateway waiting-list. All of the deferred payment sales carried out have been to existing social housing tenants. Those are tenants that could not afford to go and buy on the open-market in the private sector, whose situations have improved as well, and thus would remain as tenants. In the majority of cases, they have stayed occupying the homes that they have bought. There have been some that have moved from one social rented housing development to another but they have all remained in social housing. The sale of that home to them represents a tenure change. The impact on social housing is negligible. £31 million has been generated from these property sales, all of which have been invested in new stock or development of homes or major refurbishment. In fact, Members may recall the full business case, R.15 that supported P.33 in May this year, sets out over 20 years we will sell some 330 homes under the deferred payments scheme, sold to persons that qualify under the affordable housing scheme. All of that money will be reinvested in social housing. The Affordable Housing Gateway clearly shows that demand for social housing, as Deputy Southern has said remains high. This is undoubtedly due to the slowdown in supply of new social housing, the economic climate as well as the ongoing ageing population. It is the lack of supply that is the problem rather than the sales.

4.10.1 Deputy G.P. Southern:

Is the Minister for Housing content that he can continue to find social rental tenants to purchase housing from now on and is he content that at present some 5 3-bed houses lie empty on one particular estate and 2 2-bedroom houses lie empty now on that same Oak Tree Gardens estate?

Deputy A.K.F. Green:

Dealing with last part of the question first, no, I am not content that houses lie empty but they are not lying empty just to be mothballed. They are lying empty because tenants are applying to buy these homes, the due diligence processes are happening, they are getting a mortgage and everybody knows how long it takes to go through that process. Am I content that we are selling social rented houses? Yes, I am. Some people find their situation improves over time. They come in to the social housing system in real need very often and then the children grow up or leave home or become earners and the situation improves but those people do not have sufficient means by which to go out into the open-market and therefore will always remain tenants in subsidised social housing. But under the deferred payments scheme they can realise that dream of having their own home. They can get out of the subsidised housing and release that capital for reinvestment in homes. Very often when we sell one home we are able to reinvest in 2.

Deputy G.P. Southern:

Clarification, if I may? Could the Minister for Housing answer the question? Is he content that he will continue to find sufficient social rental housing tenants to buy properties that he has for sale?

Deputy A.K.F. Green:

The answer to that is yes.

4.10.2 Deputy J.H. Young:

The Minister for Housing has referred to his waiting list, the Affordable Housing Gateway and his policies that he is applying. Could he clarify that and indicate whether or not that waiting list and the Affordable Housing Gateway includes those persons who need sheltered-housing in the Island?

If not, could he tell us where they would be dealt with under the policy he has explained to the Assembly?

Deputy A.K.F. Green:

I explained to the Assembly last time when we met that unfortunately sheltered-housing, as it should really be described, very little of that exists in Jersey. We have homes for over-55's which are adapted with correct wet-rooms and access and wider doors but that is not sheltered-housing. Sheltered-housing provides other services such as laundry, meals, cleaning, something I am working on at the moment and we are looking at the Affordable Housing Gateway to develop perhaps a section for sheltered-housing. At the moment it is just people requiring adapted-housing, not sheltered-housing.

4.10.3 Deputy M. Tadier:

Will the Minister confirm how many extra units of housing we would need now to meet the current demand, the excess demand for social-housing?

Deputy A.K.F. Green:

It is somewhere in the region of 800 units.

4.10.4 Deputy M. Tadier:

So we have 800 units. How does fact of selling 330 units to people who are not in abject need but aspiring towards an affordable home scenario, with no safeguard that they will remain affordable homes and that they can be sold on in the future, mean that the Minister for Housing can now give us a guarantee that the sale of these homes will not have an adverse affect on the stock?

Deputy A.K.F. Green:

I suggest that the Members read my Report 15 which supported P.33 which laid this out very clearly. It is quite simple. These people will remain social-housing tenants. In the main, they will remain social-housing tenants unless we give them a way to stand on their own 2 feet. This does that. As I said before, very often when we release the capital from one home, I am able to invest in 2 homes and therefore house more people within the community. But it is all laid out in my business plan and when we hear the Budget later on today, we will understand how we are going to afford to do it.

[10:45]

4.10.5 Deputy M. Tadier:

Does the Minister for Housing agree that his primary function is for social-housing for those in the most abject need and it is not to fill in a lacuna in the Council of Ministers when it comes to putting forward a feasible strategy for providing affordable homes for those who would wish to buy?

Deputy A.K.F. Green:

My job is to provide housing across the whole of the community but there is a particular emphasis on social-housing and do Members not understand that for every house we sell, those people would have remained in that house under subsidised-housing for the rest of their lifetime. They buy it. They release the capital. I can reinvest that in housing. I do not know what the problem is.

4.10.6 Deputy G.P. Southern:

Can the Minister for Housing state how big the queue is for 3-bed purchased accommodation from social housing and how this compares with the 291 on the waiting list for 3-bed accommodation from rental?

Deputy A.K.F. Green:

I do not have that figure available but I will get it.

4.10.7 Deputy G.P. Southern:

Can he confirm that these 291, some of whom are in chronically overcrowded accommodation will have to wait between 2 and 3 years to be released from this chronic bad housing.

Deputy A.K.F. Green:

All I can say to that is support the Budget when it comes through and we will have the money to get on with the work.

4.11 Deputy S. Pitman of St. Helier of the Minister for Health and Social Services regarding the average waiting time for an appointment to see a psychologist:

What is the average waiting time for an appointment to see a psychologist?

Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):

Currently the wait for initial assessment appointments following a referral to the Psychology Assessment and Therapy Service is 16 weeks.

4.11.1 Deputy S. Pitman:

Does the Minister for Health and Social Services think this is adequate, given the nature of the people with depression, anxiety et cetera? Some people by this time could commit suicide.

The Deputy of Trinity:

If I answer the last bit of the question first, all referrals are triaged and regarding suicide, if it is identified that it is urgent they will be seen as urgent and as soon as possible, in a very short space of time. Is it satisfactory that there is a waiting-list? No, it is not, and that is why we are investing in psychological therapies as part of the White Paper and next year, as part of this White Paper the initiative Jersey Talking Therapies are recruiting more staff to support it and the position will increase significantly.

4.11.2 Deputy T.M. Pitman:

With regard to the answer just given by the Minister for Health and Social Services, could she clarify what is the waiting-time for what she described as urgent cases?

The Deputy of Trinity:

I cannot give the exact time, but if a referral is made by the G.P. (General Practitioner) to a psychologist and it is marked urgent they will be seen. That is a clinical decision.

4.11.3 Deputy M. Tadier:

Will the Minister for Health and Social Services agree that diagnosis is an issue for psychological illnesses and that not everyone who is suffering from a psychological illness will know about it? What other mechanisms are there in place to make sure that other frontline staff, not simply at the hospital but maybe teachers et cetera are able to pick up on the signs and refer people who may fall through the hoops of a G.P.'s visit?

The Deputy of Trinity:

I know that a lot of education updating is done across education as well as the other parts of the community and social services, as well as within the acute hospital setting. I have not got the exact

details of what it involves but if the Deputy wants some more information I am quite happy to provide that.

4.11.4 Deputy M. Tadier:

A supplementary, if I may. Is there to be a review of mental health provision in general, which would include psychological assessments? If so, when will that take place and who will be undertaking the mental health review?

The Deputy of Trinity:

There will be a mental health review taking place and that will include looking at the estates, the updating of the mental health law, and a whole review of the services. Who is undertaking that, I have not got that information at the moment.

4.11.5 Deputy R.G. Le Hérisier:

The Minister for Health and Social Services said services would increase significantly. Could she tell us what the current number of psychologists is, what is the number that will appear after the significant increase, and can she buy-in service, should there be a spike in demand?

The Deputy of Trinity:

The Jersey Talking Therapies is a community-based service working with G.P.s and working with the voluntary sector with Mind Jersey to deliver that as well as social services. It is helping people to understand more about themselves and their reaction to the challenges that they are facing and there will be more trained health professionals and this will include clinical psychologists, therapists and mental health care primary workers.

4.11.6 Deputy M.R. Higgins:

Deputy Le Hérisier mentioned part of what I was asking. How many psychologists have we got? That is the question. How many psychologists does the Health and Social Services Department have? Let us put these figures in perspective. We talk about a 16-week waiting-list. How many people are on their waiting-list to see these psychologists? How many psychologists, and how many people are queuing up to see them?

The Deputy of Trinity:

I have not got exact figures, but if a referral is urgent that will be done within a short space of time. The psychologists we have are working extremely hard, but once you have made that initial assessment then it depends on what type of service you need after that, whether it is one-to-one counselling or whether it is a self-help book scheme or computerised behaviour therapy. All that is done on the initial assessment.

Deputy M.R. Higgins:

Sir, could you ask the Minister for Health and Social Services to answer the question, please? It is quite specific. How many psychologists have you got in the Health and Social Services Department and how many people are on the waiting-list to see them?

The Deputy of Trinity:

Sir, I have not got the information but I am happy to send it.

4.11.7 Deputy S. Pitman:

Could the Minister for Health and Social Services inform Members how long a child has to wait to see a child psychologist?

The Deputy of Trinity:

Again that depends on the initial referral from the G.P. or any other professional. If it is an emergency it is well within 24 hours. If it is an urgent one it is within a 2-week period. We know that C.A.M.H.S. (Child and Adolescent Mental Health Service) has had an enormous number of extra referrals this year and I am pleased to say there is going to be some investment in that area.

4.11.8 Deputy S. Pitman:

I have had it from a doctor within the hospital that the average waiting-time is 38 weeks.

The Bailiff:

So your question, Deputy, is?

Deputy S. Pitman:

Is that correct and if she does not know that information will she look into it?

The Deputy of Trinity:

The information I have is what I have just said. If the Deputy has got that information I am quite happy to look at it and come back to her, but I would need the specific person, really.

4.12 Deputy T.M. Pitman of the Chief Minister regarding the difference between a ‘criminal’ and ‘regulatory’ breach of the Data Protection (Jersey) Law 2005:

Will the Chief Minister explain what the difference is between a “criminal” breach of the Data Protection (Jersey) Law 2005 and a so-called “regulatory” breach?

Senator I.J. Gorst (The Chief Minister):

The Data Protection (Jersey) Law 2005 is available publicly and online. From the Law it is clear that a regulatory breach refers to a breach of the data protection principles which are Schedule 1, Part 1 of the law, and a criminal breach refers to a breach of those Articles in the law which carry a criminal sanction.

4.12.1 Deputy T.M. Pitman:

Thank you. I hope the Chief Minister has read the Articles that he refers to. Proportionality to the offence and any action that is subsequently brought has to be the key human rights issue here. This said, can the Chief Minister explain what methodology is utilised to decide upon the charge brought? For instance, theft of personal data must be a criminal offence.

Senator I.J. Gorst:

I am not sure what the question was then. The Deputy seems to be asking me what methodology the Data Protection Commissioner uses.

Deputy T.M. Pitman:

I think it is quite a clear question. What methodology is used in deciding what charges are brought, when clearly something like a criminal offence such as theft is not acted upon in the Office of Data Protection as it should be? How are those decisions reached? It comes within the Chief Minister’s department, to be fair.

Senator I.J. Gorst:

I thought that Article 55 was quite clear, unlawful obtaining or disclosure of personal data. The law, as I read it, is quite clear. If the Deputy has specific instances once again which he seems to feel have not been acted upon within the law then obviously he needs to raise that with the Data

Protection Commissioner. It is not for us in this Assembly to be involving ourselves in individual cases like this.

4.12.2 Deputy M.R. Higgins:

I want to take issue with the Chief Minister's last question. If there are blatant examples of where material has been stolen and released to the public, surely that is a matter of public concern, especially when the person concerned was a Member of this House, and yet that person was not prosecuted by the Data Protection Commissioner. Surely there is a public interest issue on that particular matter? Does the Chief Minister agree?

Senator I.J. Gorst:

Once again the Deputy or questioner is indicating that an individual in this Assembly, in their opinion, has acted unlawfully. If that is the case then I imagine that he has put that information to the Data Protection Commissioner and I have no doubt that she will have not done anything other than handle it appropriately. As I said in my opening answer it is quite clear in the law the difference between a regulatory and a criminal breach and the Data Protection Commissioner, when considering criminal proceedings, requires consent from the Attorney General's office before continuing with one of those cases. I do not see that there is an issue.

4.12.3 Deputy T.M. Pitman:

The Chief Minister attempts to dodge the question by referring me back to the Data Protection Commissioner. Well, I could ask him, has he ever tried putting a question to the Data Protection Commissioner's office? I have and you do not get any answers. So when, as Deputy Higgins says, there is a public interest issue here, being that this relates to a Member of this Assembly, why is the Chief Minister himself not getting involved and doing something, as that falls within his department? Public interest.

Senator I.J. Gorst:

This is the problem that we sometimes have in this Assembly where Members are standing up on their feet and suggesting that I and other politicians should be involved in individual cases. That is not what our role is. Our role is to agree the legislation, which we have done and we have approved it. Your role, Sir, in the courts, is to interpret that. If we are dissatisfied with that interpretation then we should amend the law. The law is quite clear. The difference between a regulatory and a criminal breach is quite clear. There are processes in place which also I think we can be satisfied with. If Members have any question then they should address them to the Data Protection Commissioner.

4.12.4 Deputy T.M. Pitman:

A supplementary. The Chief Minister cannot keep getting away with it week-after-week because he cannot answer a question. Only the last session we saw an answer given to me by the Attorney General completely untrue, gainsaid by a judge. What the Chief Minister is saying is not true, so I would like him to explain what does one do?

The Bailiff:

Just a moment, Deputy. You cannot accuse the Member. You can say it is inaccurate but not that it is untrue.

Deputy T.M. Pitman:

I will save that for outside the Assembly then, Sir. Yes, it is completely inaccurate and I demonstrated it was thus so. How can one go and get action on these matters when the Office of

Data Protection that you are referred to will not speak to you or does nothing? The Chief Minister is the Chief Minister. Does he not think he has got responsibility to take some form of action?

Senator I.J. Gorst:

The Data Protection Commissioner acts in line with the law that we have approved in this Assembly. If we are dissatisfied with the way that the law is operating then we in this Assembly should bring forward amendments to that law.

[11:00]

This Assembly cannot be prosecutor, judge and jury over every piece of legislation that we have passed. There are, rightly, independent bodies that go off and interpret the law. If we are dissatisfied with how a law is functioning then it is incumbent upon us to come forward, have a debate and ask this Assembly to amend pieces of legislation, not to endeavour to act as prosecutor, judge and jury in individual cases where we may or may not disagree with the outcome of a particular case. Having said that, of course, I have no evidence to suggest anything other than appropriate action has been taken.

4.13 Deputy M.R. Higgins of the Minister for Home Affairs regarding who brought disciplinary action against three officers involved in car bugging in the Curtis Warren case:

Will the Minister for Home Affairs reconcile his written answer on 10th September 2013, confirming that the disciplinary action against the 3 officers involved in car-bugging in the Curtis Warren case was brought by the Deputy Chief Officer of the States of Jersey Police, with that same officer's statement to the Disciplinary Hearing conducted by the Chief Constable of Durham Constabulary that he was not the complainant but that it was H.M. (Her Majesty's) Attorney General?

Senator B.I. Le Marquand (The Minister for Home Affairs):

Deputy Higgins asked me a similar question on 24th September 2013, which indicated that he thought there was a disciplinary issue here. I responded: "If the Deputy has a complaint about the Deputy Chief Police Officer I would ask him to write to me in detail with that. I do not think that this is the right place for me to comment on such matters." Later I said: "I am not going to conduct matters in relation to potential complaints against senior officers in public in this Chamber. I have made this very clear in the past and that is my position." My answer today is the same.

4.13.1 Deputy M.R. Higgins:

I am not asking what action he is taking against the Deputy Chief of Police here on this particular occasion. I am trying to reconcile conflicting information that has been given by the Minister for Home Affairs and officers under his control and others. We have been given 3 different versions of who was responsible for bringing the disciplinary action against these 3 officers. We have the report on 10th September where the Minister for Home Affairs tells us it was the Deputy Chief of the States of Jersey Police. The Deputy Chief has stated publicly, or before the disciplinary hearing, it was the Attorney General. The Attorney General has said in this House: "It was not me." Who was the person responsible? That is the question I am asking. Can we finally get to the bottom of it? Who instigated the disciplinary hearing that resulted in the Chief Constable of Durham coming down to investigate and the officers being exonerated?

Senator B.I. Le Marquand:

The written answer which I gave on 10th September 2013 is accurate.

4.13.2 Deputy T.M. Pitman:

Sorry if I am confused and none the wiser after the Minister for Home Affairs' answer, but it is a straightforward question for him to clarify. We have got 3 allegations, if that is the term, 3 individuals. It clearly cannot be all of them. For the benefit of people like me who do not understand, and perhaps the rest of the Assembly, who initiated this investigation?

Senator B.I. Le Marquand:

I will try to repeat the information contained in the answer of 10th September as succinctly as I am able. The position is that the Law Officers' Department became aware that there was a serious attack upon the conduct of the relevant officers, as part of the appeal to the Privy Council. They brought that fact to the attention of the Chief Officer of Police and I also believe the Deputy Chief Officer of Police. The Chief Officer of Police then decided that it was appropriate to instigate an internal inquiry in relation to the methods that were being used, et cetera, and he did so. It was commissioned by the Deputy Chief Officer of Police, but at the request of the Chief Officer of Police. He did so, and the Hampshire Police were asked to do that but they were also asked that if the result of what they were doing indicated any potential criminality or any matters that might lead to a disciplinary matter against the 3 officers they should indicate that. Their initial report did indicate that, and they therefore moved on to a stage where they were investigating both potential criminality and they were investigating at the same time potential disciplinary matters. The issues of criminality were looked at, and I am not going to comment on them in detail for obvious reasons, but there were recommendations in relation to disciplinary matters. As a result of that the Deputy Chief Officer of Police caused disciplinary charges to be laid against the officers with the assistance of counsel from the U.K. from memory, and local counsel. I hope that clarifies the position.

4.13.3 Deputy M.R. Higgins:

Thank you. That is opening up another can of worms, because it then brings us down to Operation Invicta and the role of the Hampshire Police. The Hampshire Police, as my understanding is, took evidence from Curtis Warren's attorney. There were private discussions between the Chief Officer of Police and I believe the counsel, and these things led to a report that was not totally balanced. Is the Minister for Home Affairs totally convinced that the investigation into the criminality and also the disciplinary actions was conducted in a totally fair and open manner?

Senator B.I. Le Marquand:

Again, by implication the Deputy is making allegations against presumably the Chief Officer of Police and the Deputy Chief Officer of Police. If he is doing so he should do so openly to me and then I can look at the matter properly, but I am not going to comment on these matters in this Chamber. It is totally inappropriate so to do. All I can say is that the Hampshire Police were asked to do exactly what I have said to the Assembly they were asked to do, and the results were that which I have said.

4.14 Deputy R.G. Le Hérissier of St. Saviour of the Chief Minister regarding the publication of a report relating to public sector salaries over £100,000:

Further to assurances given on 16th April 2013, when will a report relating to public-sector salaries over £100,000 be tabled?

Senator I.J. Gorst (The Chief Minister):

The report the Deputy asks about was presented to the States Employment Board in May this year, and therefore I apologise to Members for the delay in its publication. Arrangements have now been made for it to be published and it will therefore be on Members' desks today.

Deputy R.G. Le Hérissier:

I thank the Chief Minister.

4.15 Deputy G.C.L. Baudains of the Minister for Transport and Technical Services regarding the Jersey Electricity Company's cable project at Mount Bingham:

Is the Jersey Electricity Company nearing the end of its cable-laying at Mount Bingham and, if so, will the Minister for Transport and Technical Services advise how soon the road will be open, even if only for single-lane traffic?

Deputy K.C. Lewis (The Minister for Transport and Technical Services):

The J.E.C. (Jersey Electric Company) is due to complete the Mount Bingham section of the Normandie 3 installation by Monday, 14th October. T.T.S. and the parish are working together to allow South Hill to be used by west-bound traffic in the morning peak, and then revert to east-bound traffic during the rest of the day. An announcement in the media will be made this Wednesday, 9th October, once all the details have been arranged. This has been done to reduce the pressure of the tunnel during peak-travel times.

4.15.1 Deputy G.C.L. Baudains:

Is the Minister for Transport and Technical Services aware that the duct-laying by the J.E.C. down South Hill and down Mount Bingham was completed, trench reinstated and road-markings repainted before Thursday, 2nd October, that is last Thursday, and the only barriers in place were at the very bottom? In fact it would be possible to run single-line traffic through quite easily. Why is that not being done?

Deputy K.C. Lewis:

It is work that is ongoing, because there are so many utilities in the road there, and unfortunately J.E.C. have to come down the middle of the road, so it is necessary to reclose the road and continue with works.

4.15.2 Deputy R.G. Le Hérissier of St. Saviour:

While the J.E.C. has taken a middle-route to this, indeed what you might call a fence-sitting route, would the Minister for Transport and Technical Services confirm Deputy Baudains' assertion that the road could now be opened?

Deputy K.C. Lewis:

The works must be completed, but this has been brought forward due to the loss of the Normandie 1 cable. This has been brought forward by 12 months, and work is progressing well and at my insistence more gangs have been put on there to get the work finished as soon as possible, but there will be an announcement in the media regarding the openings.

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

I am puzzled by the Minister's answer. Is the Minister for Transport and Technical Services saying that the work was speeded-up and that the first opportunity to reopen South Hill has now been made or is he agreeing with Deputy Baudains that this work was finished some time ago and we could be using that road now?

Deputy K.C. Lewis:

No. It was opened for a few hours, I believe, because there was a huge event going on at Fort Regent, but the J.E.C. has to cross the road at the bottom of Mount Bingham and that is where the disruption took place.

The Bailiff:

The Connétable of St. John?

The Connétable of St. John:

My question was put by Deputy Young.

4.15.4 Deputy G.C.L. Baudains:

A 2-part question. The Minister for Transport and Technical Services has said that the duct-laying is down the middle of the road. To most people I think that would mean that it is down the middle of the road. Would he confirm that it is the middle of the west-bound lane, which would leave the east-bound lane open? Secondly, would he advise us what the nature of the work yet to be done is, because at the present time it would be perfectly possible to drive even a heavy-goods vehicle through there? The only obstruction is some barriers on one side of the road, with no apparent work taking place.

Deputy K.C. Lewis:

Yes, work is ongoing. The proposed programme of works was agreed with the J.E.C. to enable the closure of Havre des Pas. However the contingency changes were moved. The J.E.C. will continue to work Havre des Pas working eastwards towards the Dyke roundabout under road-closure. However under T.T.S. direction, the J.E.C. have agreed that Havre des Pas will be open to traffic before 9.30 a.m. and after 3.00 p.m. allowing traffic to flow in the mornings and late afternoons Monday to Friday. It should be noted that when contractors' hours are shortened it does not mean the project takes longer. The J.E.C. programme of work continues on to Greve d'Azette and Green Road, however roads will be reopened during peak-times to minimise traffic disruption and all works should be completed by the spring. With regard to the Mount Bingham section, as Members know, the Parish of St. Helier is undertaking stabilisation work at Mount Bingham with T.T.S. assisting in the project's management. The stabilisation of the rock-face is continuing and the contractor is making good progress. A major part of the rock work is bolting a section of the rock that is over 1,000 tonnes in weight. To do this the rock-bolts need to be inserted in sequence, working from top to bottom, so as to minimise the risk to the men installing anchors at the ropes. The rock face should be stabilised enough to allow one lane of traffic to pass by mid-November, in about 6 weeks' time, but I reiterate that we will be using the South Hill section of the road, and that will be published in the media tomorrow.

4.16 Senator S.C. Ferguson of the Minister for Transport and Technical Services regarding the removal of infestations of Japanese Knotweed:

Further to the supply of the extremely useful app for identifying the locations of infestations of Japanese Knotweed, what steps, if any, will the department be taking to get rid of this weed?

Deputy K.C. Lewis (The Minister for Transport and Technical Services):

Yes, the Senator is absolutely on the right track. *Fallopia Japonica*, a very virulent weed. I am pleased to say that my department is working closely with officers of the Planning and Environment Department in the battle to control this weed. At the present time it is only Environment Officers who operate the app referred to, however officers from my department provide information to the Planning and Environment Department as and when they encounter the

weed and this information is used to update and maintain the Planning and Environment Department's system. As part of our service-level agreement with the Planning and Environment Department, each year our countryside team inject the stems of Japanese Knotweed with weed-killer. This is an extremely labour-intensive but very effective method of control, achieving a kill-rate of approximately 90 to 95 per cent. Unfortunately for various reasons relating to when the plant is susceptible to the weed-killer, this work can only be undertaken in July and August. This severely limits the areas of treatment that we can undertake in any one year.

[11:15]

4.16.1 Senator S.C. Ferguson:

Is the Minister for Transport and Technical Services aware that in a number of locations the weed has been cut back and taken down to the green-waste composting department in his department? Given that segments of this weed can stay dormant for 20 years and a one-centimetre section can give you a new plant in 10 days in the right conditions, what is he going to do to ensure that the compost has no Japanese Knotweed in it which will contribute to the spread of the weed?

Deputy K.C. Lewis:

Indeed, the Senator raises a very interesting point. Officers down at La Collette are very well aware of this problem, and should any Japanese Knotweed come in it is put in a separate receptacle that is taken around to the Energy from Waste plant and immediately incinerated at high temperature. Should a small section of knotweed be introduced into the composting system I am assured that since we have purchased the new windrow system, the new machine for that, the temperature in the compost is sufficient to destroy any weed and any seeds that should arrive in it. The soil itself is independently tested at regular intervals.

4.16.2 Senator S.C. Ferguson:

Given that Japanese Knotweed grows on volcanoes to begin with, is the Minister for Transport and Technical Services sure that the heat is sufficient to kill it, because there is a very large clump of Japanese Knotweed just near Mont Orgueil Castle, and I would hate to see that disrupted by the weed growing underneath it. Is he absolutely certain that the heat is going to be enough to kill it?

Deputy K.C. Lewis:

I am assured it would be. On a volcano is not quite the same thing as in it, but I am assured that the heat generated by the compost is sufficient to destroy the weed and, as I have said, the soil is periodically tested for just such an eventuality.

The Bailiff:

Very well. On that note we will bring Questions on notice to a close and then in accordance with Members' earlier decision we will have next a statement from the Minister for Treasury and Resources relating to the Budget, and I invite the Minister to make that statement.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

5. The Minister for Treasury and Resources - statement regarding the Budget 2014

5.1 Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

Members will be relieved that the Budget statement is not quite as long as Members would have thought. Obviously the Greffe thought that it was so good that it should be printed twice, but they have 2 copies of it. The Budget gives something back to the hard-working people of Jersey, who have carried on through difficult economic times. It is a Budget that supports economic growth,

job creation, more and better homes, better education, better healthcare and a step-change in investment and improved infrastructure. The last 5 Budgets have involved making some extremely difficult decisions on tax and spending. While there has been some positive economic news at the global level in recent months, the O.E.C.D. (Organisation for Economic Co-operation and Development) policy advice at the global level is to continue to support demand in order to reduce the risk that the recovery will be derailed. That is why this year's Budget is different, a carefully constructed package to address the reality that the local Jersey economy is still under pressure. In 2012, economic activity fell, as measured by G.V.A. (Gross Value Added) in Jersey. Our G.V.A. is heavily influenced by interest-rates set by the Bank of England, so when interest-rates are low our G.V.A. will also be low. This does not indicate an underlying structural decline in the Jersey economy. Inevitably, interest-rates will rise and so will our G.V.A. It is very important for us to look at the performance of the Jersey economy as a whole. Actual tax receipts remain resilient and better than forecast. The number of people in work is close to a record-high. The average earnings increase in June 2013 was 2.2 per cent. This is an early indication that economic trends in 2013 have changed significantly, and there are also improvements in the business-activity indicators. Five of the 10 indicators for the finance sector improved, and 7 of the 10 indicators for the non-finance sector improved in the second quarter. We expect better news tomorrow. Recovery is now in sight and this Budget aims to help it. That said, as far as the labour market goes, despite the recent record-high employment levels, the I.L.O. (International Labour Organisation) unemployment rate of 5.7 per cent is unacceptably high for Jersey and we must do more. Turning to the tax measures, firstly impôts, there has been a fuel duty increase in only one of the last 5 years. This year it is proposed to put 2-pence on a standard pint of beer, 6-pence on a pint of higher strength beer, 47-pence on a packet of 20 cigarettes, £1.27 pence on a litre-bottle of spirits and 7-pence on a bottle of wine. These measures are designed to support the Minister for Health and Social Services' and the Minister for Home Affairs' programmes to reduce excessive drinking and smoking on the Island. We must remember that Jersey deaths from chronic liver disease are up to 40 per cent higher than would be expected in England and Wales. In 2010 there were 2,373 hospital admissions attributable to alcohol. Furthermore, there are around 200 smoking-related deaths in Jersey every year. The cost to the health service, let alone for the individuals and their family and friends, is considerable. I have also considered carefully the ongoing and as yet unexplained high margins that exist on virtually all products that carry duty. While those in the industry have lobbied, they have still not explained why it is that when duty and tax are stripped out the underlying cost of these products is so high. My message to Members is that their benevolence in not increasing duties in the past has not always translated into lower consumer prices, but what appear to be higher margins. I am willing to have a debate about this between now and the Budget debate in December. These proposed duty increases are also part of an overall package of measures that taken together are designed to cut taxes to lower and middle income taxpayers. There is no change to the 5 per cent rate of G.S.T. (Goods and Services Tax). Some minor changes will be made to clarify the detailed administrative arrangements. I can say that the Treasury and Resources Department will support the Economic Development Department on an Aircraft Registry by amending the G.S.T. legislation in tandem with the drafting of the law on an Aircraft Registry. We will continue to work with the Minister for Economic Development and his team on doing everything we can to support businesses. The Economic Development Department now has considerable resources already approved, including the Innovation Fund. We look forward to the publication of the new Enterprise Strategy in advance of the Budget in December, which will set out how economic growth can be further boosted and businesses helped. Personal income tax in Jersey is based around the standard 20 per cent rate of tax with limited deductions and allowances. However, in order to protect the lower to middle income earners a separate calculation called 'marginal relief', with a 27 per cent rate, is also made with much higher allowances. Taxpayers pay whatever calculation gives them the lowest tax bill, so no one in Jersey pays more than 20 per

cent of their total income in tax. This Budget proposes 3 bold measures. Increase income tax exemption thresholds by 1.5 per cent. This is at a cost of £2.5 million to the States. For a single person the tax-free exemption amount will rise to £14,000. Secondly, and this is the really positive news I hope from this Budget, we propose to cut the marginal rate of tax from 27 per cent to 26 per cent **[Approbation]**. This will not only benefit all marginal rate taxpayers but in addition a number of standard-rate taxpayers will be brought into lower taxes. This will cut taxes for approximately 84 per cent of taxpayers, which is around 40,000 households. The cost of decreasing the marginal rate by 1 per cent is approximately £7.8 million. Thirdly, some good news for lower and middle income parents who currently have a child over 17 years of age in full-time further education, who can currently claim a higher child-allowance of £6,000. We propose that this allowance will be increased from £6,000 to £9,000 for marginal rate taxpayers **[Approbation]**. This has a benefit of up to £800 for individual students. Concerning the property market, I am pleased to report that the First-Time Buyers Deposit Loan Scheme is working well, and I thank Members for their support. The Council of Ministers believe it still needs to do everything it can to help Islanders get on the property ladder, and this Budget proposes a continuation of the extension of the maximum threshold for first-time buyer relief from £400,000 to £450,000 at an estimated cost of £300,000. This is the first Budget that moves away from short-term, one-year ahead budgeting. All the time we would have spent on next year's spending, which has been fixed in the Medium-Term Financial Plan has been spent on longer-term planning. The changes in our Finances Law are not only working here but are being looked at by other jurisdictions as a model of better financial management and long-term planning. Published alongside this Budget are 3 reports. Firstly, the Tax Policy Unit was asked to provide a follow-up report on the effects of the introduction in 2011 of the new tax regime for High Net-Worth Incomers. The report concludes that the new regime is working well, however some further changes can be made to boost economic growth, jobs and inward investment. This Budget proposes to allow High Net-Worth Incomers who arrive before 2011 to transition to the new regime, provided they meet certain criteria. This will encourage the relocation to Jersey of further investment portfolios and attract active businesses to the Island. This will in turn generate tax revenues, fees and economic growth through spending and employment. In addition I am announcing that the minimum contribution level will be reviewed every 3 years with a view to increasing the tax contributions for High Net-Worth individuals in line with inflation. As part of the programme of work for modernising Jersey's system of taxation, the Tax Policy Unit was asked to review how Independent Taxation could be introduced. The term: "Independent Taxation" refers to the policy of taxing people as individuals regardless of their marital status. In Jersey there is currently a 'default' for married couples to be taxed jointly. There are also certain allowances that only apply to married couples, such as the Wife's Earned Income Allowance. While married people have been able to opt for separate assessments since 2003, it is now clear that the tax regime needs to adapt and evolve so that every individual is treated equally for tax purposes. We are committed to moving towards Independent Taxation. It is a big task and a phased approach to implementing change is needed. It is proposed that a first important step towards Independent Taxation is made in this year's Budget by changing the allowances I referred to earlier. A major consultation is launched alongside today's Budget about changes to the tax rules that apply to pension schemes and pension benefits. At the moment the tax rules cause an unnecessary constraint on people employed in Jersey, in that it is necessary for a member of an occupational pension scheme to retire before they are able to draw a pension. This has the effect of barring people from opting for flexible retirement. We want to consult on changing the tax rules to remove such unhelpful constraints and to provide better flexibility for people in their retirement planning. Turning now to spending, Members will recall that last year we made a decision based on advice from Scrutiny, and we decided that some growth and capital allocations should be decided by the Assembly each year at Budget time. Growth allocations of £2.2 million for 2014 and £1.5 million in 2015 are set out and are consistent with those debated in last year's M.T.F.P.

(Medium-Term Financial Plan). This includes money for Social Housing, Income Support, Disposal of Ash and funds for boosting the International Engagement Capacity. The job of making the States more efficient of course continues. In the last 3 years almost £60 million has been saved, and we are doing more. Across the States, work on the transformational changes are delivering both improved customer services and further efficiencies and savings in 2014 and 2015. Additional savings are being achieved, recorded and banked, and means that further substantial and re-occurring savings will be achieved before the next M.T.F.P. Let there be no doubt of my absolute determination to continue to cut costs and ensure the States is efficient. It is a never-ending task, now and into the future.

[11:30]

We have a very ambitious capital programme of over £90 million for 2014. This year we are seeing La Collette High-Rise refurbishment and the second phase of Le Squez is underway. New builds at Journeaux Street, Lesquende, and Fields 516 and 517 in St. Saviour will together deliver a total of an additional 124 units [**Approbation**]. The new Stores and Works Building at the Prison is nearly complete, as is the I.C.U. (Intensive Care Unit) upgrade at the General Hospital. Work has begun on St. Martin's Primary School. The upgrade of Clinique Pinel and Victoria College School extension are all underway. Through regular meetings with the Construction Council we have been doing all we can to help the industry maintain employment levels in these difficult times as well as, of course, delivering real benefits to our community. This year's Budget has an ambitious capital programme of £90 million. £1 million is to be provided for I.T. (Information Technology) projects to help with e-government. Last year we indicated that investment would be necessary in primary education to deal with the increased demand for primary school places. The initial proposal was that a new primary school that would be built in St. Helier. After much consideration and excellent work by Jersey Property Holdings, a more cost-effective scheme has been developed that will see extensions and improvements made to a number of existing primary schools that are being announced today. This means that we can bring forward also some additional schemes into the capital programme. I am delighted to say to the Connétables that further funds will be available to bring forward a number of their parish-regeneration projects. [**Approbation**] The Education, Sport and Culture Department will also get capital to fund their Sports Strategy, over £2.5 million in sports infrastructure and endeavour will meet the Chief Minister's request that there should be a specific focus on preparing for participation and lasting benefit for the Island Games 2015. I am particularly pleased that Deputy Le Hérissier's soles are in good shape today. [**Laughter**] The States Environmental Service will benefit from more investment in the countryside, to maintain the Coastal National Park and improve our network of footpaths. While I come on to the longer-term proposals for improvement and development of the future hospital and facilities I should say that in this Budget £10.2 million is proposed for the first phase of the hospital redesign, preliminary works and the needs of transitional capacity in 2014. The funding proposed for the Main Theatre Project will help reduce hospital waiting-times and improve services for patients. The investment of £500,000 in Intermediate Care will help more integrated health and social care for adults and provide better facilities for those suffering with dementia. Finally in relation to the capital programme for 2014 the Health and Social Services Department will receive funds for the refurbishment of Sandybrook and in 2014 this will deliver real improvements in nursing care for older people. [**Approbation**] For the Transport and Technical Services Department, as well as significant sums to maintain our infrastructure of roads and drainage, there is over £10 million to upgrade the Sewage Treatment Works and the replacement of the Clinical Waste Incinerator. Although the benefit of these investments may be less visible to the public in the short-term, I know the Connétable of St. John is well aware of them, the Island cannot function without modern and efficient infrastructure. These are the sorts of things that we take for granted and only tend to notice them when something goes wrong. The Transport

and Technical Services Department's projects related to ash, recycling, scrap metal and the Energy From Waste plants are all essential to move forward in a more environmentally-sound and sustainable future. Finally for T.T.S., the 2014 capital programme provides for the additional Green Street car parking spaces which are a planning condition, of course, for the new Police H.Q. (headquarters). Members will be pleased to know that there is an allocation proposed for the Treasury and Resources Department which includes £750,000 to demolish the Fort Regent swimming pool which has become such an eyesore. **[Approbation]** More progress will be made on this site in 2014 and beyond, and details of the Fort Regent Steering Group's proposals will be forwarded to Members in the next month. I am grateful to my Assistant Minister, Deputy Noel, for all his help in this and in so many areas of this Budget. **[Approbation]** The proposed capital programme for the States Trading Operations of £2.4 million is also set out and taken together the main programme of £88 million brings the new-starts projects in 2014 to over £90 million, a substantial commitment and injection into the local economy at this time. There are no "nice to haves", and each project has been chosen for value for money in their own right. This is a thoughtful and thought-through programme which endeavours to use taxpayers' money wisely. In line with the recommendations of the Fiscal Policy Panel, the 2014 Budget also proposes funding for a significant investment in 3 major projects that are essential to meet the Island's long-term infrastructure needs for health, housing and liquid waste. Identifying the necessary funding streams for these 3 major infrastructure investments has been a challenge when at the same time the Council of Ministers wants to reduce the burden of taxation on Islanders rather than increase it. We have worked with the departments to arrive at a proposed set of funding measures which strikes the best balance between meeting the service delivery and spending needs and minimising impact on taxpayers. The Health Proposition that was approved by this Assembly on 23rd October 2012 set out the vision of an integrated care-model and a programme of change for the future. Central to the development of this vision was the need to have a new General Hospital which would be fit for purpose and capable of sustaining the acute care provision requirements for the population. After a great deal of good work with Jersey Property Holdings and the Health and Social Services Department, a lower budget of £297 million has now been set and the Minister for Health and Social Services will explain how this will work. I want to address the funding. **[Approbation]** In 2010 the States established a Common Investment Fund. Since the end of 2010 the investment strategy for the Common Investment Fund has changed. There has been a move away from assets with a low-rate of return, such as cash and sovereign bonds, to assets with a higher-rate of return, such as equities and corporate bonds. Investment returns since that time have increased substantially. In that period the Strategic Reserve Fund has increased from £550 million in July 2010 to over £720 million in July 2013. The Budget proposes that the exceptional need for funding for a new hospital should be met from the investment returns from the Strategic Reserve Fund. **[Approbation]** This means that the hospital project will be fully paid for by the time it is completed and there will be no cost to the taxpayer and no debt for future generations. **[Approbation]** Our central assumption is based upon investment returns averaging 5 per cent over the next 10 years. With an investment return averaging 5 per cent over the next 10 years the hospital funding of £297 million can be fully met and the Strategic Reserve would still rise to a value of £810 million. There will also need to be in the terms of the second area an upgrade of social housing as well as an increase in the availability of social housing. The States granted approval on 16th May 2013 to enable the Housing Department to become incorporated into a new entity. The Housing Department's financial model was developed on the basis that the new company would borrow to meet its spending needs and repay the debt using the rental income associated with the new or refurbished properties. A schedule of the housing schemes that could be carried out with funding of £207 million over 10 years is set out in their report. In addition, a further £43 million is proposed to fund the acquisition and development of new sites including some that may become available as a result of the possible rezoning sites identified in the Island

Plan. It is proposed that Jersey's excellent credit-rating is utilised in order to borrow up to £250 million for housing purposes through the issuance of a public-rated bond and thereby locking in low interest-rates for the benefit of the Island and the Budget seeks approval for this. **[Approbation]** New investment is also needed in our liquid waste infrastructure to replace the Sewage Treatment Works at Bellozanne. The safe disposal of Jersey's waste-water is vital to keep the Island safe to live in and to protect our surrounding waters. The Minister for Transport and Technical Services has made it clear that there are 3 main drivers for change. Firstly legal. The current Sewage Treatment Works are breaching consent conditions. Secondly, operational. The infrastructure is failing, leading to high maintenance costs. Thirdly, environmental. There is a need for compliance with the Water Framework Directive. The total funding for the replacement sewage works is estimated to be in the region of £75 million. The overall strategy for liquid waste will be the subject of a further debate to be led by the Minister for Transport and Technical Services. The proposals for funding the investment needed in the Sewage Treatment Works are that they will be funded from 3 sources, a targeting of the existing rolling-capital vote, an allocation within the traditional main capital programme and an investment from the Currency Fund allocation for infrastructure. The new infrastructure will be more energy-efficient and cheaper to run, and this will enable the Transport and Technical Services Department to repay the internal investment from the Currency Fund and reduce both the internal borrowing costs and risk. This Budget brings forward cost-effective ways of funding 3 major projects that minimise the effect on taxpayers, maximise the use of existing resources and improve our Island's infrastructure for the long-term. I would like to thank the Minister for Health and Social Services, the Minister for Housing, and the Minister for Transport and Technical Services for their hard work in supporting and developing these plans that underpin these strategies. **[Approbation]** This is a Budget that balances the need for short-term fiscal support, to boost employment with the need to underpin economic growth and job creation policies in the medium-term. This Budget provides fiscal stability and certainty to businesses. The Minister for Social Security has already announced the new Long-Term Care Scheme which is now funded earlier and without a contribution in 2014. This is designed to help our senior citizen community. Today young people and young parents benefit from the extension of the tax allowances for university students. This is a Budget which helps a very significant number of Islanders, but most importantly it is a Budget that provides direct financial relief to the majority of hardworking, taxpaying Islanders and leaves more money in Islanders' pockets. This is a Budget that invests in St. Helier, is prudent, targeted, confidence boosting and looks to our future. So I commend this Statement on the Budget 2014 to the Assembly. **[Approbation]**

The Bailiff:

There is now 10 minutes in which to ask the Minister questions on that statement. Connétable of St. John.

5.1.1 The Connétable of St. John:

The last couple of words the Minister said says it all: investment in St. Helier. **[Laughter]** Can the Minister for Treasury and Resources explain why only £6.65 million is being proposed for the infrastructure of roads, et cetera, given that some 20 years ago £15 million a year was being spent on our roads and over the recent years the number has been falling, and we see yet again that number is very low? Likewise I note only £10 million is in our Liquid Waste Strategy.

The Bailiff:

I think one question please, Connétable.

The Connétable for St. John:

Sir, you are cutting me off at the knees again.

Senator P.F.C. Ozouf:

This Budget delivers the biggest investment in infrastructure that we have seen in recent times and sets out how it is going to be funded. **[Approbation]** I mentioned St. Helier because it is important. There are lots of St. Helier projects in there but other parishes benefit too. We should have a debate about roads certainly over the next few weeks but T.T.S. is getting value for money from the existing Budget, laying more tarmac, doing more roads, quite apart from the Fiscal Stimulus money that already went in.

5.1.2 The Connétable of St. John:

The Minister for Treasury and Resources mentions better value for money. I would disagree with the Minister given that we have seen the mess that happened on Victoria Avenue and at the airport when roads had to be resurfaced. Are we really getting better money? The work has to be done twice.

Senator P.F.C. Ozouf:

I believe we are.

5.1.3 Senator L.J. Farnham:

The statement points out that our G.V.A. level is heavily influenced by the interest rate. Is this then to be our only policy out of the decline in G.V.A. to wait for a rise in interest-rates because even if you strip out that effect there is a decline in the size of the economy and I wonder if the Minister for Treasury and Resources could address how he intends to deal with that in the medium-term.

Senator P.F.C. Ozouf:

The G.V.A. number does need to be properly put into context.

[11:45]

It is driven to a great extent by the low interest-rates and the margin that banks can get in terms of the profitability by upstreaming to the U.K. and we should not simply only look at G.V.A. It is always difficult in a Budget to repeat effectively the measures that we have already taken and many people will say: "Well, what is new in this Budget for business?" The reality is just as in previous Budgets, though we have dealt with significant investment and income support, we already have huge changes in terms of the support for businesses already agreed, the Innovation Fund, the step-change in investment in terms of economic development, the changes that have been made in financial services. All of these measures are absolutely vital to secure our economic future and anything more that the Minister for Economic Development wants to help businesses then he will receive a willing and co-operative ear from myself and Council of Ministers' Members.

5.1.4 Connétable S.W. Pallett of St. Brelade:

The Minister for Treasury and Resources stated that fuel duty had increased in only one of the last 5 years but he did not state whether there is going to be a duty increase this year. Could he confirm there is going to be one and does he think that proves that economic activity is falling or has fallen?

Senator P.F.C. Ozouf:

I think that is a really important question. The fuel duty increase is proposed to be 1p and I think that the last increase over the last 5 years was 2p. Effectively fuel duty has gone up 2p in 5 years and I would draw Members' attention to the U.K. price comparator's report which shows the real questions that need to be asked about duty products in Jersey. I understand Members' concern about duty increases but their benevolence in not increasing duties does not translate into margins, into actual consumer prices either being stable or falling for consumers. The opposite is the case and we need to have a Jersey-wide debate and we need to shine the torch into these areas and

explain why a pint of beer is 86p higher in Jersey compared to the U.K. when stripping-out duty and tax. **[Approbation]** A litre of fuel is 23p and that is quite apart from a packet of cigarettes which is about 47p. That is where the issue is and we need a proper debate about how we are going to ensure the consumer prices are constrained.

5.1.5 Deputy J.A. Hilton of St. Helier:

I was going to ask the Minister for Treasury and Resources a question about how he was going to respond to some of the public statements made by, for instance, the Chair of a local brewery with regard to not increasing duty but he has just mentioned that. What I would like to do is ask him a question about his point 123 about the investment fund returning 5 per cent over the next 10 years. Could he just explain to Members what the plan is if the fund does not return that sum of money when it comes to funding the capital projects?

Senator P.F.C. Ozouf:

The Deputy is absolutely right and it is good to debate this issue of the Strategic Reserve. The first thing to respond is to say what has changed from the policy of not touching the Strategic Reserve previously. First of all the Strategic Reserve has not been touched as a result of Members' wise decisions to deal with the deficit a number of years ago. Secondly, because we have not touched it, it has improved and we have been beating the investment benchmarks in terms of ... I think it was a result of 9.8 per cent in the last year. We have already banked an increase and a significant uplift which pays the majority of the Health and Social Services Department's budget. Looking forward I think the Treasurer of the States and the Assistant Minister would say that a 5 per cent return on the future of the Strategic Reserve, which will not of course all be drawn down immediately, would in fact be a bad result looking at their investment performance and the importance of investments. I am going to publish a number of different scenarios for the Strategic Reserve which answers the Deputy's questions in detail about what would happen but the Strategic Reserve even at 2 per cent return will not fall below half a billion.

5.1.6 Deputy J.M. Maçon:

May I congratulate the Minister for Treasury and Resources on his pre-election Budget? On point 55 though may I ask that while I welcome this change of thinking, can the Minister for Treasury and Resources please explain the change in rationale for introducing this policy when he was so vehemently opposed to it when Deputy Southern proposed it last year? Point 55, which is the linking of high net-worth tax liabilities in line with inflation.

Senator P.F.C. Ozouf:

I am disappointed at the cheap shot by the Chairman of P.P.C. about pre-election Budgets. **[Laughter]** I do not believe that any Member of this Assembly has made decisions on financial management with an eye to the ballot box. We have made tough decisions on tax and spending in recent years and this Budget does not stop that. It continues a spending arrangement, continues to put pressure on States spending and I would ask him respectfully to perhaps reconsider that cheap shot. In relation to high net-worth individuals, Deputy Southern previously has challenged us in relation to lifting the minimum tax contribution and the important change that is being set out now is that rather than changing it on an annual basis it will be done over 3 years. We have looked at the overall assessment of this. I do not think Deputy Southern is a fan of the former 1(1)(k) regime. We have looked at a fairly-judged arrangement. We will lift that minimum contribution and we will do so every 3 years and we have also widened the 1(1)(k) ability to bring inward investment and jobs and portfolios that are currently managed in other places to Jersey and I hope he would welcome that.

5.1.7 Connétable D.W. Mezbourian of St. Lawrence:

On first reading I congratulate the Minister for Treasury and Resources on what he has presented to us this morning. I agree with his comment that it is very important for us to look at the performance of the Jersey economy as a whole and clearly the ambitious £90 million capital programme goes a long way to supporting the local economy. However, will the Minister guarantee to us that local architects, local builders and local service providers will be used on this ambitious £90 million capital programme?

Senator P.F.C. Ozouf:

Absolutely, and I hope that it will not only be the public sector, the States, but I hope it will be the parish schemes that are going to benefit from additional funding that will also use local individuals. The issue of the architects on S.o.J.D.C. (States of Jersey Development Company) has frankly been blown out of all proportion. There appears to be a number of Members that have not yet understood the benefit - and the Connétable is not in that camp I am sure - of getting a better land return from taxpayers' land on the Waterfront which is what we are trying to do. A story emerged as a result of a question at the Corporate Services Scrutiny Panel of why there was a U.K. architect for S.o.J.D.C. The fact is that there were 2 architectural practices as I understand it that are capable of dealing with big buildings and both of them were running the alternative competitor schemes. Was it right that S.o.J.D.C. should be going to the architect dealing with a competitor scheme? Of course not. The default position for all States-owned enterprises, all States-owned entities is that local companies employing local people should be preferred and £700,000 is designed, yes it is off-Island spend, to get 10s of billions pounds of spend and benefit the taxpayers, and on occasion that will be required. But the default position is local people and local jobs at local activity.

5.1.8 Deputy J.H. Young:

I share the Connétable of St. Lawrence's congratulations. I think there is much good in this Budget particularly as we know that in 2015 the bad news is coming about the extra taxation from the Long-Term Social Care costs. I would like to ask in particular about the changes in direct taxation for middle Jersey which are clearly very welcome. Could he first of all confirm that this reduction will cost around £11 million and could he inform the Assembly whether or not that is matched by spending reductions in the Budget? Is it that that proportion of cost is going to be passed on to the other 16 per cent of the taxpayers in their direct taxation? Could he tell us that?

Senator P.F.C. Ozouf:

The tax-cut for marginal taxpayers is fully funded. It is taking account of the latest estimates and in the period of time between now and the Budget some further analysis of the overall impact of States spending and individual department spending will be set out as is normal in a very detailed annexe. The Deputy will be able to see the forward projections of States income which shows that there absolutely no deficit envisaged. We are dealing with a balanced budget position and he makes an important point about savings. It is almost assumed, because the C.S.R. (Comprehensive Spending Review) came at an end in 2013, that savings endeavours and savings targets would be finished. That is not the case. We have set budgets for 3 years and that delivered this Comprehensive Spending Review amount. Further savings as I attempted to explain are now being achieved week-in week-out by departments, the Social Security Department, the Transport and Technical Services Department., the Education, Sport and Culture Department, the Health and Social Services Department, all departments as a result of the reviews, including lean reviews, are delivering savings. These are being banked. These are being recorded and they will result in underspends in budgets by the time we reach 2015, and a recurring level of savings which will be much greater than £60 million will therefore be included in the next M.T.F.P.

6. Questions to Ministers without notice - The Minister for Treasury and Resources

The Bailiff:

That brings questions on the statement to an end but we move on then to questions without notice, and the first period is to the Minister for Treasury and Resources. What I propose to do and I hope Members think this is fair, I have a large number of Members who have indicated they wish to ask questions so I am just going to carry on down the list but obviously questions may now be about any subject not just about the Budget statement. Senator Ferguson.

6.1 Senator S.C. Ferguson:

Would the Minister like to tell us what the Plan B is if the 5 per cent growth of the Strategic Reserve is not achieved?

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

First of all I have to say that I am probably more of an optimist than Senator Ferguson and I think that with a rising-tide of economic recovery being clearly underway now in the world, notwithstanding the debt that is a problem in the U.S. (United States), that investment returns for the next few years should be more positive. I think that we have always had a Plan A and only a Plan A. Plan A is working despite many people's comments perhaps in the last few years that it would not. Clearly the investment in the hospital needs to be made. The individual draw-downs from the Strategic Reserve will be considered this year of £10 million, next year there will be a sizeable amount withdrawn but we will, of course, make those decisions prevailing at the time but I am setting a clear direction. The hospital can be afforded by the uplift in the value of the Strategic Reserve. The Health and Social Services Department are going to work to improve that budget. They are delivering now everything that we want in terms of single rooms and everything within that budget, and it is a case of working and ensuring that that happens. There is no Plan B. It is going to happen and we are going to deliver value for money from the investment returns from the Strategic Reserve effectively already gained.

6.2 Connétable J. Gallichan of St. Mary:

Firstly, can I thank the Minister for Treasury and Resources for his attention to the *grande projets* which we have often discussed in the past? I think he has taken some bold steps in this Budget and I congratulate him on that. It is however often just the simple things like the duty on cigarettes and alcohol which grab the headlines. Recently I was quite shocked to see the high percentage of cigarettes that actually come as a result of duty-free sales rather than sales on duty. Can the Minister for Treasury and Resources assure me that the necessary modelling has been done to be sure that the proposed increases in duty will result in a revenue increase, that we are not just losing the revenue to more duty-free sales without getting the associated health benefits which I am sure we all strive for?

Senator P.F.C. Ozouf:

Very briefly, the Connétable of St. Mary has been one of those Members that says: "It is all right, Minister for Treasury and Resources, you have put austerity, you have put cuts and you have put tax increases. When are taxpayers going to get something back?" If the *grande projet* is the hospital delivered from the Strategic Reserve then she has been patient and now has her *grande projet*, and I am pleased that she recognises that. In relation to duty-free sales, yes this is an issue and this is a carefully judged issue that we have talked to Customs and Immigration about. I agree with the lobby of the tobacco because duty-free sales are being effectively switched from local Island to effectively off-Island purchases. We need to have a debate about that and I would just signal to Members that perhaps we should as the time is coming for us to look at that duty-free of 200 cigarettes imported. Let us look perhaps at the Australia model which has cut the duty-free import requirement from 200 to 50 cigarettes. There is no duty-free in Europe any more. Let us

talk to the industry and tourism to see if that would be a distraction in terms of not bringing people to Jersey but let us look at innovative ways that we can win the fight against cancer which is caused by tobacco. We can maintain our revenues. We could also deliver money for cigarettes for delivering health care services. We need a debate about this.

[12:00]

6.3 Deputy M.R. Higgins:

I am just going to follow up on what Deputy Hilton and Senator Ferguson said. It is about the 5 per cent return. We all know that investments go up and down and anyone who is forecasting that we are going to have a return of 5 per cent for 10 years when the world has gone through what it has gone through in the last 5 years, and with all the uncertainties despite some signs of growth in some areas there are so many problems out there that it would be ludicrous for us to think we are going to get that return and that money is guaranteed. That is the first comment.

The Bailiff:

A quick question please, Deputy, not a comment.

Deputy M.R. Higgins:

The question is would the Minister for Treasury and Resources not agree that investments can go up and down and with the state of the world there is no certainty whatsoever that these returns will take place?

Senator P.F.C. Ozouf:

No, but we have invested. We have substantial investment returns as already said and I think that he was in the Town Hall assembly room on Friday where the Treasurer of the States did set out ... perhaps he was not there, perhaps I need to get him into the Treasury and Resources Department to get a briefing on the investment criteria and the different scenarios that we have run through, and I am happy to engage with the Deputy. I would say to him is that surely now we can turn to being slightly more optimistic than pessimistic about the global economic situation? We have been through a crisis. That crisis is now looking as though it is coming to an end. We have positioned Jersey in a fantastic place to take as much of the uplift when economic growth returns. That is what we have said. That is what we are doing. We need to turn our attention now to delivering that so he is not concerned about not getting a good return on our investments.

The Bailiff:

So sorry, Deputy. Did you want a supplementary?

Deputy M.R. Higgins:

Are we allowed supplementary?

The Bailiff:

Yes.

6.3.1 Deputy M.R. Higgins:

Thank you. The other part of the question I was going to ask was that there is no doubt that we have had austerity for the last 5 years and our economy has gone backwards, and it is right that people in one sense are getting some benefit for a change, but it does strike me and I will say this, the devil is always in the detail with these. It looks good on paper here. When we start delving through the Budget documents I think we will come up with a different conclusion but what I would say is I happen to agree with Deputy Maçon.

The Bailiff:

Can you come to your question?

Deputy M.R. Higgins:

Yes. Is it not also convenient that your good news is in time for an election? It is fair, it is an election Budget.

Senator P.F.C. Ozouf:

I absolutely do not agree.

6.4 Deputy R.G. Le Hérissier:

Building on the Constable of St. Lawrence's question, with this slew of capital projects there is a glorious opportunity to enhance, to increase the Island's school base and to get rid of all the constant urban myths about white-van men and outside contractors. Will the Minister for Treasury and Resources confirm that in the tendering processes there will be specific conditions put in where contractors and such like people will be expected to contribute without detriment to the quality of the work, to contribute to the development of the Island's school base?

Senator P.F.C. Ozouf:

I think that that is already well underway. The work that the Economic Development Department, the Education, Sport and Culture Department and the Social Security Department have done in this skills executive, the work that is done week-in week-out by Senator Routier in terms of chairing the Migration decision-making for the successor to Reg. of Uns. (Regulation of Undertakings) means that employers are reasonably being asked to employ local labour, to put in apprenticeships, to prepare young people for the workplace in the future. I think that that work needs to continue. The Treasury and Resources Department will support that but other departments are doing that work led by the Economic Development Department.

6.5 Deputy J.A.N. Le Fondré of St. Lawrence:

Slight parallel with Deputy Young's question, item 41, the cost of decreasing the marginal rate by 1 per cent is approximately £7.8 million which broadly speaking I am supportive of. I want to link that to then ask a question to the move to Independent Taxation. My recollection and it is really clarification, from the Minister for Treasury and Resources is that in the briefing we were given on Friday that the move to Independent Taxation was at no cost to the States but at a cost to the taxpayer, and therefore the implication is does that mean that is an increase in revenue from the move to Independent Taxation and does that mean one is paying for the other or have I misread it?

Senator P.F.C. Ozouf:

This is complicated which it is difficult to summarise quickly but the report into the feasibility of moving to Independent Taxation is published today. The £7.8 million tax cut of the marginal rate is taken as I have explained to Deputy Young by the existing and improvements in the finances of the States. Further changes to Independent Taxation as the Deputy rightly says are going to be challenging. There is going to be further alignments between the joint system of tax and personal tax, and there is going to be some tradeoffs and there are going to be some costs associated with that. This report informs that subsequent budgets will take further steps to deliver what we are aiming to do which is Independent Taxation and, subject to States finances at the time, perhaps further changes can be made to the margin-exemption system.

6.6 Deputy M. Tadier:

We have record unemployment in recent years with figures going up all the time. We have an economy which has shrunk to 1990 levels which includes the finance industry yet we have a

Budget which is predicated on blind optimism for economic recovery. Can I ask the Minister for Treasury and Resources whether he believes that it is not an act of gross negligence to come here to the States and to tell us that he has no Plan B if in fact there is not economic recovery which seems entirely likely from some economists? We do need to have alternatives about how we are going to fund capital projects going forward if there is not the recovery which he so fervently expects.

Senator P.F.C. Ozouf:

I do not think that I have ever been somebody that could be described as being overly optimistic in terms of costs. In fact, one of the reasons why we have the ability to deliver a tax-cut on the marginal rate is because it could have been said that the Budget that we put forward 2 years ago was overly pessimistic in terms of the return to the economy. I say to the Deputy that he has, if I may say, talked down our financial services industry. He has said that the Jersey financial services industry is something that we should be ashamed of. That is what he has said in a number of other forums.

Deputy M. Tadier:

Point of order, Sir. That is simply not correct, it is also imputing false motives and I would like the Minister for Treasury and Resources to take that back.

The Bailiff:

I do not think it imputes false motive but certainly if it is incorrect then the Minister will ...

Senator P.F.C. Ozouf:

Well, I certainly can read French and I understood what the French articles meant in the English language. But never mind, if that is not what the Deputy meant, if he was misquoted, then fine. I will ...

Deputy M. Tadier:

The Senator needs to make the retraction because he is quoting false information. If he wants to read from any source and quote my words accurately he can do that. But he has conveyed a completely false sense here in the Assembly today and I wish him to remove those statements.

Senator P.F.C. Ozouf:

The Deputy and I do not agree, clearly, on the financial services industry and over the last few weeks we have been getting the message across about the value of Jersey ...

Deputy M. Tadier:

Point of order. It is a very simple statement and I would like the Chair to rule on this.

The Bailiff:

Either you agree you are wrong or you maintain your position. Which is it?

Senator P.F.C. Ozouf:

I think I maintain my position.

The Bailiff:

Well, then it is not something the Chair can resolve.

Senator P.F.C. Ozouf:

I wish the Deputy would be more optimistic about what we are doing in terms of financial services. We are winning business. We are winning the argument about the value of Jersey to the U.K., and that message is now going out wider. We need to talk up Jersey in a responsible and accurate way based upon facts and we need to build our financial services industry for the future, which is what is going on and this Budget supports that. Is it a Budget of confidence? It is prudent. It makes staged withdrawals from the Strategic Reserve and it makes investments that we can afford and for

the first time, and I would have thought the Deputy would have welcomed this, we are also borrowing. We are borrowing for housing investment. We are locking in Jersey's low interest-rates.

The Bailiff:

A concise answer, if you would?

6.6.1 Deputy M. Tadier

I have a supplementary. The question was not about the finance industry. It is about economic recovery and how it would affect Jersey. Can I ask the Senator why he has not made any provision for the Social Security Department's budget to increase while we face a middle class who are more likely to become unemployed without the prospect of any benefits of having to sell their homes? How does that affect the voting middle-class who may be facing hardship and selling their houses during a time of austerity?

Senator P.F.C. Ozouf:

This Assembly has voted in the last 10 years for a substantial increase in the amounts of money that we are investing in transfer payments and income support. The Minister for Social Security is putting in place arrangements that elderly people will not have to sell their own homes when they come into care. I think the Deputy needs to balance his remarks. Yes, it has been a difficult economic time but there are more people in work. We have seen a contraction in living standards and this attempts to deal with that by sending a clear signal that we are now on approach of economic growth and reducing the taxation burden not increasing it.

6.7 Deputy C.F. Labey of Grouville:

I would like to congratulate the Minister for Treasury and Resources on focusing on the economy, tax and, hopefully, local jobs. Probably unlike the Constable of St. John who is not altogether satisfied with the amount being spent on roads, although I do appreciate not in this Budget, but I would like to flag up possibly for the future that more should be done to support greener, more sustainable transport measures. So I would like the Minister for Treasury and Resources to confirm his support and encouragement for this area in the future.

Senator P.F.C. Ozouf:

As an Assistant Minister within the Economic Development Department, I am sure the Deputy is well aware and receives representations from the clean-tech green sectors of the Jersey economy and I think that we should not forget the substantial investment that we have made, for example, in homes insulation. I think there is something like £1 million that goes into the Planning and Environment Department's budget to ensure that homes are insulated free of charge for many Islanders. There is more to do. We have received representations, which are not included in this Budget, for a subsidy for electric cars. But the debate on the Budget is lodged today and there is a debate in December. If she or any other Members have other proposals, other initiatives, other ideas and I can see Members nodding their heads. If they want to pull back on some and put some money in elsewhere then I am here to listen and Ministers will consider amendments as appropriate to this important Budget and, yes, she is right, we should be thinking about green and how we can improve the environmental-friendliness of our economy.

6.8 Deputy T.A. Vallois of St. Saviour:

I would like to congratulate the Minister for Treasury in bringing this forward. I am broadly supportive but I am fairly tentative, as he would expect. Could the Minister for Treasury and Resources explain, although the marginal relief is being reduced, it will not be felt by Islanders until 2015. Does he not agree that it would be more beneficial to the economy to hold-off on any

increases in the taxes until the 2015 Budget, and I am particularly referring to the A.M.P.O. (Average Mandatory Provisional Contribution).

Senator P.F.C. Ozouf:

I am grateful for the Deputy's tentative support. I hope that she will become more tentative and optimistic as we explore the detail in the future. She is right about the tax-cut. There is only one way of dealing with our system of tax. We want to move to a current-year basis but currently we do it in arrears and it is only in a Budget that we can change for the next year. But this sends a clear message that we are cutting taxes. Of course, many young people will be on the immediate current-year basis. So there are increasingly lots of individuals who will benefit from that marginal rate cut straight away. My comments about duties, well, I am afraid that her benevolence and her earnest desire to give something back has not been proven in terms of a policy when we simply freeze or we cut duties and we need to have a debate about that and for that we have a long period of time between now and December. We need to shine the torch into this area to understand how we can cut the cost of living for Islanders, not increase it.

The Bailiff:

You were next, Connétable, but time has run out on you. [Laughter]

The Connétable of St. John:

Some of the Members were permitted a second question and my light was on earlier, as you are aware, but can we ask that Standing Orders be lifted so additional questions can be put to the Minister for Treasury and Resources?

The Bailiff:

No, I am afraid it has been held before and that is not possible, Connétable.

7. Questions to Ministers without notice - The Chief Minister

The Bailiff:

So now we come to the next period of questioning which is to the Chief Minister.

7.1 The Deputy of St. Martin:

Would the Chief Minister inform the Assembly when was the last time the Council of Ministers was briefed on the Financial Services Ombudsman primary legislation?

Senator I.J. Gorst (The Chief Minister):

I am not sure the last time the Council of Ministers was briefed but I know that good progress is being made on this particular proposal in the Economic Development Department. The Council of Ministers are quite clear, as are Ministers that sit on the Financial Services and External Relations Group that the Financial Ombudsman should be a pan-Channel Island body and there are currently proposals with the States of Guernsey to approve Guernsey's involvement in that body and we hope that the States of Guernsey will be able to consider that during the course of October. But good progress has been made. Regulations are drafted and we hopefully will be there soon.

7.1.1 The Deputy of St. Martin:

Given that the official line is still to open this office in the first quarter of next year, is the Chief Minister surprised that he has not seen primary legislation?

Senator I.J. Gorst:

I am not surprised. The Council of Ministers are quite clear that it should be undertaken jointly with Guernsey and until we are in a position where Guernsey have approved that, then we would not expect to see the legislation presented before us because the first question we will ask, as we

asked on previous occasions, is what is the position with regards to our colleagues in Guernsey? Having said that, I know that the department has made very good progress and drafted the regulation.

[12:15]

7.2 Deputy T.A. Vallois:

Could the Chief Minister please provide Members with links to the States and Council of Ministers policies that were impacted by the proposed Budget changes and any hard, factual evidence as to how raising taxes in Jersey translates into behaviour changes of those policies?

Senator I.J. Gorst:

From other jurisdictions we know that lowering taxes can be seen as a positive thing because more people fall and can fall into the tax-net. Of course, I will endeavour to undertake the piece of work that the Deputy refers to. Policies brought forward by Ministers are considered by the Economic Development Department, which would provide details along those which the Deputy is suggesting. They are scrutinised by the independent Fiscal Policy Panel. Those documents are made public as well and Members of this Assembly have the ability to question those independent individuals.

7.3 Deputy J.M. Maçon:

This is in regards to the Chief Minister's role on S.E.B. Given what has come to light about the pathology lab, will the Chief Minister give an undertaking that he will brief States Members about this and other areas where bad practice in the States is existing so that we, as all States Members, can provide more political will in order to sort these types of issues out given that human resources is an area where we clearly need much more emphasis to be placed?

Senator I.J. Gorst:

This States Employment Board, this Council of Ministers, is placing more emphasis on human resources and we have been criticised for employing more people in the human resources sector but we stand by those decisions because we know that getting human resources right is very important. We know that the reform and redesign of the public sector is extremely important to ensure that we can control costs and increase efficiency into the future. I am not aware of bad practice that the Deputy seems to be referring to. I, like other Members, listened to the answers given by the Assistant Minister this morning and it seems to be being handled in an appropriate manner.

7.4 Deputy J.A.N. Le Fondré:

As I understand matters, the dispute between the Bishop of Winchester and a Member of this Assembly, namely the Dean of Jersey, remains unresolved. Will the Chief Minister assure the Assembly that the report resulting from the Dame Heather Steel investigation will be placed before the Assembly and in full, i.e., with any appendices, findings and recommendations?

Senator I.J. Gorst:

That is not within my gift, however, perhaps I could indulge the Assembly. It seems to me that the Korris Report instructed by the Bishop of Winchester was almost instantly placed in full in the public domain and, therefore, it seems to me that it would only be right for the Dame Heather Steel review to be treated in the same manner and put into the public domain.

Senator L.J. Farnham:

I withdraw my request for a question.

7.5 Deputy T.M. Pitman:

Being interested in Jersey's image and reputation, I was intrigued to read in the new best-selling economics book by former tax inspector, Richard Brooks, called *The Great Tax Robbery*, that apparently Her Majesty's Treasury and Her Majesty's Revenue and Customs officers are, to a significant degree, owned within Jersey. If that is correct, can the Chief Minister tell us what is the actual benefit to Jersey with regard to reputation and is there any negative impact to the U.K. taxpayer of such a mechanism being employed?

Senator I.J. Gorst:

I am afraid I have not had the pleasure of reading the book to which the Deputy refers. I do not understand what he means when he uses the words "owned by".

7.5.1 Deputy T.M. Pitman:

I would assume, if it is helpful, there are some kinds of tax-dodge which Jersey is quite notorious for. It is there in black and white. What were the benefits to us having public assets of the U.K. public part-owned in Jersey? If it is wrong then we will take it up with the gentleman but I am just concerned about the damage to Jersey's reputation.

Senator I.J. Gorst:

The Deputy made a number of statements there which you would expect me to wish to disassociate myself and, hopefully, Members of this Assembly. He uses the word "dodge". I suppose we could give him the benefit of the doubt but in most people's minds and in the public mind when he uses such terms it would seem that he was referring to tax evasion. As he well knows, tax evasion has been a criminal offence in Jersey for many years [**Approbation**] and we have signed and are in the process of signing - and this Assembly will hopefully agree them in due course - a number of treaties which put beyond doubt in my mind that Jersey is being used for such evasion. This Assembly has already agreed the regulations which give effect to the disclosure facility with regard to the United Kingdom and, as we said at the time, that should put beyond doubt the use of Jersey for tax evasion and, therefore, I do not think it is right to stand up and make the comments which the Deputy has said. I would also say that if the Deputy has read ...

The Bailiff:

Chief Minister, there are a lot of Members wishing to ask questions. It was about some book, I think the question was. Do you want to comment on this book or not?

Senator I.J. Gorst:

What I would just like to say is that I am surprised the Deputy appears not to have read the Independent Capital Economics Report which overwhelmingly shows the value of the Jersey economy to the United Kingdom economy.

Deputy T.M. Pitman:

With due respect, I know the Chief Minister struggles with economics, he does not know a lot about it. But all I am asking is a claim in a best-selling economics book by a tax inspector from the U.K., correct or not? That is all I am asking.

The Bailiff:

Deputy, you have had your 2 questions.

Deputy T.M. Pitman:

But we do not get an answer, ever.

The Bailiff:

There is, in fact, a Standing Order that says Members should not ask a Minister whether something in the media is true or not.

7.6 Deputy M. Tadier:

Would the Chief Minister inform whether the Jersey Access to Justice Group has now been officially formed, whether they have met already and, if not, when their first anticipated meeting will be?

Senator I.J. Gorst:

As I said at the last States Assembly, this would be the first piece of work which needed to be undertaken. As the Deputy knows he has had prior sight of a proposed terms of reference and membership and structure of how we will deal with that issue. He has some concerns and I am due to be meeting him, I am not quite sure when my diary allows but certainly, I believe it is within the next fortnight and I will be able to consider his concerns at that point.

7.6.1 Deputy M. Tadier:

The simple question was, though, I need to find out whether or not that Group has met yet and, if not, will he agree that Group should not meet until I and other concerned Members have had a chance to discuss both the composition and terms of reference of that group?

Senator I.J. Gorst:

I am not aware that group has met anyway and, obviously, I would wish to take regard to the concerns the Deputy might have.

7.7 The Connétable of St. John:

Given that on page 32 of the Budget, I see J.D. Edwards, web and application for remedial Windows 8 comes to £1.4 million. Over the years, it has been said many a time in this House that we are poorly served by J.D. Edwards. Can he explain why we are going to spend £370,000 in his department on upgrading some of that equipment if it has been reported as being so poor over the years?

Senator I.J. Gorst:

Quite simply, I think we all acknowledge that upgrading a system and improving it is far more cost-effective than bringing in a completely new system and, as I understand it, there are upgrades are required. They will improve the service provided and that is a cost-effective way of dealing with the system that we currently have.

7.7.1 The Connétable of St. John:

Does that also apply to the web-development, please?

Senator I.J. Gorst:

There are a number of areas where I think we have acknowledged that while our web-service might be extremely informative we need to change, to modernise, to ensure that those people accessing that site have a good customer experience but, more importantly, we also need to ensure that individuals in our community are able to act in a transactional way over the Internet with government and that is currently something that does not happen. So we need to be spending more money in that area not less as the Connétable seems to be indicating.

7.8 Deputy J.H. Young:

Has the Chief Minister had the opportunity since we discussed Senator Breckon's proposition on Sunstone to consider the Statement of Facts circulated and discuss with the J.F.S.C. (Jersey Financial Services Commission) whether or not an independent investigation into that case would be beneficial. Is he able to inform the Assembly of any news on that before our next States sitting?

Senator I.J. Gorst:

I thank the Deputy for his question. Yes, my staff have found somebody that we think is a suitable individual associated in the past with financial services ombudsmen in the U.K. The individual is a very senior individual. My staff this morning emailed Senator Breckon to ask if he was satisfied

with such an individual and outlined the timescale. Of course, the timescale will be determined by the number of those individuals which wish to interact with the inquiry. But, subject to Senator Breckon agreeing that that individual is suitable, then the inquiry should be able to start in short order. The individual, as part of his employment, does have to notify the employer to get approval as well.

7.9 The Connétable of St. Brelade:

In light of the Chief Minister's comments to the Deputy of St. Martin in relation to the implementation of a Financial Services Ombudsman, is he now saying that we were reliant on Guernsey agreeing to proceed with this project?

Senator I.J. Gorst:

We are not saying that we are reliant upon them but my position is that if we are to have a Financial Services Ombudsman it should be pan-Channel Island.

7.9.1 The Connétable of St. Brelade:

Could he then assure the House that it is the intention of the Council of Ministers to implement such a scheme; if not in Quarter 1 next year, then at least in the life of this Assembly?

Senator I.J. Gorst:

Of course, I would be extremely disappointed if it were not within the lifetime of this Assembly. I see no reason at this point to suggest anything other than it should be. It might be that our colleagues in Guernsey are not able to join right at the start of the scheme, but we would have to consider at what point they could and the advantages and disadvantages of such a process.

The Bailiff:

Very well. I am afraid that brings questions to the Chief Minister to an end.

Deputy T.M. Pitman:

Sir, on a point of order, could I just raise something quickly? You took me to task over my question. I would point out that the source of information originally comes from Her Majesty's Treasury website, so I do not think I have probably fallen foul of that media Standing Order. If I could just flag that.

The Bailiff:

What the Standing Order says is: "A question shall not ask whether any statement in the media or made by any individual who is not a Member of the States is accurate." Before we move on to the statement, can I inform Members that the States Employment Board has presented R.129, States Employment Board Applications under P.59/2011 activity report for the period January to December 2012.

[12:30]

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

8. The Minister for Health and Social Services - statement regarding the future hospital project

The Bailiff:

The Minister for Health and Social Services will make a Statement about the future hospital project.

8.1 Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):

Last year, this Assembly approved a vision of a new integrated care model for health services in Jersey. We also approved a programme of change to meet the challenges facing the Island's future health and social service. This vision is for a General Hospital which is fit-for-purpose, capable of sustaining the acute care requirements of the population and one that complements the integrated care strategy being developed for Jersey. It also highlights the need for a service which is safe, sustainable and affordable. The Budget lodged by the Minister for Treasury and Resources today includes proposals to allocate funds from the Island's Strategic Reserve towards the future hospital project. Modelled on projected healthcare needs in the future based on actual hospital activity in 2011/2012 and the latest census projections, the project has been developed to meet the needs of an ageing population. It will also meet the demands for better facilities, modern equipment, services, standards and infection-control. This analysis has identified that, by 2040, we will need significantly more hospital beds to meet demand. At least 47 additional transitional beds will be required by 2017 to avoid a permanent bed shortage. To meet current European standards, the hospital will need to be double its current size. A condition assessment has confirmed the majority of the building is in need of significant investment or replacement. With the current layout of the hospital allowing little opportunity to intensify uses on the existing site, any development needs to be delivered in a phased manner and it is clear that a complete redesign and increase in the size of the current hospital is required. Using cost/benefit and risk criteria, potential sites were drawn up and evaluated resulting in W.S. Atkins recommending a shortlist of 3 sites. Having been advised of the funding envelope available, the Ministerial Oversight Group for Health Transformation accepted that a phased development of the existing General Hospital offered the best option. The architect appointed to develop the future hospital identified that a single investment in the General Hospital site would not maximise the benefit of the available investment; it would result in an even more lengthy and complicated construction programme and would cause significant disruption and inconvenience to patients. There were also added difficulties relating to existing planning restrictions on some hospital buildings which would impact significantly on the ability to develop a building large enough to safely house modern healthcare services. For these reasons, creating a 2-site hospital with some services based at a second location was an obvious consideration. In line with this, a new model of care is proposed that would separate emergency and inpatient overnight-care from outpatient day-care. A brand new outpatient building would be developed at the Overdale Hospital and integrated with existing rehabilitation and community and social services to form a new Westmount health centre. It will also provide new diabetes, pain and cardiology centres and new state-of-the-art laboratories and pharmacy, and it allows for us to look at the feasibility of other services, such as whether it would be more effective and practical to deliver more treatments for cancer patients on-Island. This would free up vital space at the General Hospital which, with the benefit of significant refurbishments, will provide new theatres, single-bed wards, a new accident and emergency and children's departments and a completely refurbished maternity wing. A £297 million budget has been set for this project. It is one that is considered both prudent and, in the current economic conditions, meets the key health priorities for the provision of future hospital services. The new Westmount health centre and St. Helier General Hospital can both be delivered within that budget. Proposals for the short-term theatre and bed-capacity are also included in the funding. The Health and Social Services Department is currently at the pre-feasibility stage of this project. It will involve more detailed consultation with our staff during the feasibility phase and, over the next few weeks, the Health and Social Services Department will embark on a series of public meetings to present the future hospital plans to Islanders. It is anticipated the feasibility phase will begin in earnest early next year with an anticipated start-date for the building works of early 2016. Assuming the successful implementation of the community-based health services, as described in the Health and Social Services Department's White Paper, this project will ensure that Jersey is well-placed to meet the

level of capacity for healthcare services that will be needed in the future. This is extremely good news for Islanders. At last, we not only have certainty of funding, but can also start the process of improving our healthcare facilities sooner than we thought and at better value for money. I look forward to engaging with Members and Islanders in the weeks ahead; the important next step in the improvement of healthcare in Jersey. **[Approbation]**

The Bailiff:

We now have 10 minutes of questions. Deputy Higgins?

8.1.1 Deputy M.R. Higgins:

In, the fifth paragraph, the Minister for Health and Social Services states that the proposals were modelled on the latest census projections. We have asked repeatedly in this House what population figure the General Hospital was based on. Will the Minister now tell us then what these latest census projections are for the population and how the General Hospital was modelled, what population size?

The Deputy of Trinity:

As I have said many times in this House, this is based on 4 different points: hospital capacity was calculated on the 2011/2012 actual hospital data to which the latest 2011 census projections were applied. The analysis assumed that proposals approved with P.82/2012 for delivery of more health services within the community are successfully implemented, and it shows a new hospital capacity of around 300 beds will be required by 2040 and also that 47 additional beds will be required by 2017.

8.1.2 Deputy M.R. Higgins:

The Minister for Health and Social Services again has not answered the question we have been asking repeatedly in this House: we would like to know what population figure they are basing the size of the new hospital on. We have got 100,000 at the moment; are we talking about 120,000, 140,000 population? What population figure has the Minister based the new hospital on? It is a straightforward question.

The Deputy of Trinity:

It is straightforward and I tried to give a straightforward answer that there is not just one answer. The hospital activity data in 2011 and 2012 was worked on actual number of people that were in work and needed hospital treatment in Jersey. As I said, we added the 2011 census into that to make sure that the calculations as we go forward are correct.

Deputy M.R. Higgins:

There must have been a projection of what the population was. The Minister for Health and Social Services is evading the question. All I want to know is what population figure has the Minister based the new hospital on, and to cope with?

The Deputy of Trinity:

Perhaps the Deputy and I need to sit down with the Statistics Unit for them to explain how it is not just one simple figure. We put in the 2011/2012 actual hospital data. On top of that, we have projected where we are with the 2011 census projection. I am very happy to sit down with the Deputy and explain.

Deputy M.R. Higgins:

I think we would like to know what the population is going to be by the time the hospital is built and the new ...

The Bailiff:

Deputy, we have got to move on to another one, but I understand your concern. Deputy Young?

8.1.3 Deputy J.H. Young:

The Minister for Health and Social Services previously advised the Assembly that we needed a hospital for 64,000 square metres which was a very substantial building. Could she update us on what is now proposed but, in particular in doing so, can she assure the Assembly that in the feasibility phase that she is going to carry out, she will also look at our ability to staff this vital facility, because would she accept that buildings do not make a health service, it is people?

The Deputy of Trinity:

Yes. I would like to reassure the Deputy too that, as part of this feasibility phase, a lot of work has been done already regarding looking at the resources. When you build a new hospital, like the side-rooms, as it is a new ward, you put in place a better design to enable use of resources to the best advantage. That work is being done and it will continue to be done during the feasibility stage.

8.1.4 Deputy M. Tadier:

Does the Minister for Health and Social Services agree that access to primary care is a concern for many residents in the Island as prohibitive because of cost, and will that be factored into the design of any new facilities built in the Island which may facilitate greater access and possibly alternatives to G.P. visits for islanders?

The Deputy of Trinity:

The Primary Care Review was part of P.82 and that is a separate side of the work which is in place, but the calculations in relation to the size of hospital needed took into consideration what was in the White Paper and all the initiatives that came alongside that and were going to be put in place. If they were not put in place, we would need an even bigger hospital.

8.1.5 The Connétable of St. Lawrence:

The Minister for Health and Social Services has told us that the project is being developed to meet the needs of an ageing population. Will she expand upon that, please; how is it being developed?

The Deputy of Trinity:

It is taking into account that more over-65s make use of health services and the population of that age group is growing, so we have factored that in because, as I have said, we know that the over 65s, and there is a lot of evidence to show that, need more healthcare services.

8.1.6 Deputy J.A. Hilton:

The Minister for Health and Social Services in her statement today has talked about single-bed wards. Would the Minister not agree with me that, infection-control aside, some patients might prefer to be in a 4 or 6-bedded ward for companionship reasons? Also, I would have thought it would be easier from a nursing point of view to nurse in a 4 or 6-bedded ward rather than a single-bedded ward.

The Deputy of Trinity:

This is one of my highest priorities: that this hospital, looking forward to the next 10, 20, 30, 40 or 50 years should be all single-room wards. If you go into one of the bays at present where it is 6 beds in a bay, it is totally wrong in this day and age that people, when they are at their most vulnerable, have to share toilet-facilities, they have to share a room with 4 or 5 other people. There is a lot of evidence to show the success of (a) recovery as the most important thing and (b) peace and dignity. When somebody is very seriously ill and needs their family around them, they want

the privacy and dignity of a single room. As regards more resources, yes, we will need more resources. There is also a lot of evidence to show how to use those resources to the best possible use when you are nursing with single wards, and also it is important in the design stage, making nursing stations long so that nurses can see into the rooms more easily.

The Bailiff:

Does any other Member wish to ask a question of the Minister for Health and Social Services? I am seeing if there is a non-Minister. Senator Routier.

[12:45]

8.1.7 Senator P.F. Routier:

Just following up from that last question, would the Minister for Health and Social Services agree with me that it is vitally important for infection-control to have smaller bed-units because I understand that the larger wards can all be closed down if there is even one patient who has a particular infection? So single-bed wards are better.

The Deputy of Trinity:

I thank the Senator for mentioning that. Infection-control is important. If a patient is admitted with M.R.S.A. (meticillin-resistant staphylococcus aureus) and they are in a bay, obviously once they have been diagnosed that they have got it, they have to move to a single room. Consequently, that bay is totally out of action, so you can immediately have 6 beds out of action. So, by having single wards, preventing cross-infection plays a vital part in that.

8.1.8 The Connétable of St. Lawrence:

Will the Minister for Health and Social Services tell us exactly who has been appointed as the architect for this scheme?

The Deputy of Trinity:

The architect who has since been appointed after W.S. Atkins is Graeme Hutchison. I think I have got his title right, but I will come back and confirm his name.

The Connétable of St. Lawrence:

Is it a local company?

The Deputy of Trinity:

No. This gentleman comes from the U.K. He is a health-buildings guru because it is understanding how the concept of a 2-site would work. It is a very specialised area and we are working through that into the next stage of feasibility.

The Bailiff:

Very well. I am afraid that brings questions to an end. Sorry, Deputy; you have missed out twice.

Deputy G.P. Southern:

It is not a question, Sir, can I take the opportunity before we close for lunch to offer my apologies to Members as I will not be here at 2.15 p.m. I have a funeral to attend and it is the first one I have ever been to on a Tuesday.

LUNCHEON ADJOURNMENT PROPOSED

Deputy R.G. Le Hérissier:

Can I move the adjournment, Sir?

The Bailiff:

Yes. The adjournment is proposed and so the Assembly will reconvene at 2.15 p.m.

[12:47]

LUNCHEON ADJOURNMENT

[14:18]

PUBLIC BUSINESS

The Bailiff:

We come next then to Public Business and the first matter on the Order Paper is the Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment No. 6) (Jersey) Regulations 201-, Projet 97, lodged by the Minister for Economic Development, and I will ask the Greffier to read the citation.

9. Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment No. 6) (Jersey) Regulations 201- (P.97/2013)

The Greffier of the States:

Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment No. 6) (Jersey) Regulations 201-. The States, in pursuance of Articles 12, 13, 26 and 29 of the Sea Fisheries (Jersey) Law 1994, have made the following Regulations.

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

Sir, I am delighted to say that my Assistant Minister has volunteered to be rapporteur for this item.

9.1 Deputy C.F. Labey of Grouville (Assistant Minister for Economic Development - rapporteur):

The Minister manages commercial fishing efforts in local and neighbouring French waters where, by licences issued to the owners of British-registered fishing vessels, each licence has conditions attached to it that control a range of matters, including the retention of certain fish subject to quota. Jersey is bound by its Fisheries Management Agreement with the U.K. to issue the same rules relating to quota to Jersey-licensed fishing vessels as apply throughout the United Kingdom. The draft regulations seek to amend the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003. The main change is to make new provision in respect of how notices of variations may be published. The amendment also corrects a minor discrepancy in the existing regulations. I ask the Assembly to adopt the principles.

The Bailiff:

Are the principles seconded? **[Seconded]** Does any other Member wish to speak on any of the principles?

9.1.1 The Connétable of St. John:

Could the Assistant Minister tell us what support, if any, has come from the Fishermen's Association, from both the inshore and deep-sea fishing associations, and when you met with the 2 associations, please?

The Bailiff:

Does any other Member wish to speak?

9.1.2 Connétable M.J. Paddock of St. Ouen:

Could the Minister tell us also, do these regulations apply to Guernsey as well?

9.1.3 The Connétable of St. Brelade:

Regarding the report that commercial fisherman have been consulted, was there a large consultation process with all fisherman? I understand commercial fishing and sturgeon fishing have a more complicated licence, but some of the people that may have missed out here, they may not have confirmation or not have internet access and may well miss any planning licences that have gone up. I really want to know what consultation perhaps has taken place that would include all fishermen.

The Bailiff:

Does any other Member wish to speak? Then I invite the rapporteur to reply.

9.1.4 The Deputy of Grouville:

There has been consultation with the Fishermen's Association and fishermen and, out of those who replied to the consultation, 67 per cent were in agreement with what is being proposed. Guernsey have their own fishing management agreement with the U.K. and, as we are bound to have the same rules relating to quota in Jersey as do the U.K., I am assuming that Guernsey have likewise. All fishermen will be able to access the website if they so choose. If they do not - and this is what I was going to come on to in the regulations - there will still be notices put up informing them of changes, mainly to quota. This will be put up on the La Collette Marine Resources notice board, but these are only for minor changes, mainly due to quota. For any substantial changes, the fishermen will be informed of this in the usual way in writing. At Economic Development and at Planning and Environment, we have regular meetings with the Fishing Association and certainly subsequent ones to those, the official ones that are organised, and the Minister for Planning and Environment and the Minister for Economic Development and myself avail ourselves to meet quite regularly with the Chair of the Jersey Fishermen's Association and fishermen when they request it at other times in the Marine Resources Panel meetings. Thank you, Sir. I make the principles.

The Connétable of St. John:

I asked if the Minister could tell us when the actual meetings were held for both the Inshore Fishermen's Association and the Jersey Fishermen's Association? There are 2 different groups.

The Deputy of Grouville:

The Marine Resources Panel meet quarterly and they have a broad church of representatives from all different elements of the fishing industry, the fishing environment, and they are represented on this panel, and this subject would have been for them to go back to their members to discuss with them.

The Connétable of St. John:

The Minister still has not answered the question: when did she meet this association or the 2 associations?

The Deputy of Grouville:

I am an observer on the Marine Resources Panel. As I have just said, we meet quarterly and the chairs of all the fishing industry, whether they are inshore, offshore or leisure come around that table. The 2 Ministers and I regularly meet other fishermen and chairs of various panels as and when they request meetings. The last meeting I had was probably a fortnight ago and the Marine Resources Panel was probably 3 weeks ago but, as I said, those formal meetings take place on a quarterly basis.

The Bailiff:

Very well. All those in favour of adopting the principles, kindly show? Those against? The principles are adopted. This matters falls within the Economic Affairs Scrutiny Panel, of which the Chairman is the Deputy of St. Martin. You are the Vice-Chairman.

The Connétable of St. Brelade:

I do not wish to review this.

The Bailiff:

You do not. Thank you. Very well, how do you wish to proceed then, Deputy, in relation to the regulations?

9.2 The Deputy of Grouville:

Sir, I can go through them and there are 2 main issues here, so I will dwell on those. Regulation 1 is an interpretation provision. Regulation 2 relates to the definition of overall length, which is no longer required. Regulation 3 seeks to remedy a minor anomaly in the existing regulations; it substitutes the current Regulation 6 to allow the Minister to determine and add classes to licences and permits for the purpose of the regulation. Regulation 4 is the main purpose of the amendment and contains the new provision in respect of how licence and permit variations, suspensions and revocations may be published, providing a new option of publishing them on a website. Fishermen will be required by licence condition to check the nominated website for any changes to their licence conditions, particularly in respect of quota. This process has worked well in other jurisdictions and all parties recognise that it is clearer, more transparent and more convenient to fishermen who spend time at sea and cannot always access and check the *Jersey Gazette*. As I have already said, the majority of Jersey fishermen surveyed who responded, 64 per cent, were in favour of the proposed system. If this amendment is approved, licence conditions relating to quota would be published on a nominated website, so for those fishermen not having access to the Internet, the same conditions would be displayed on the La Collette Marine Resources notice board. The option of publishing such licence conditions in the *Jersey Gazette* would be removed. This amendment will allow for a more efficient service delivery. There will be some savings in administration, advertising and postal costs, and a reduction in the amount of office time associated with the delivery of quota management. Regulation 5 removes a redundant clause. Regulation 6 provides that the regulations will come into force in 7 days after they are made. Sir, I propose the amendments to the regulations.

The Bailiff:

You propose regulations 1 to 6?

The Deputy of Grouville:

Regulations 1 to 6, yes, Sir.

The Bailiff:

Are they seconded? **[Seconded]** Does any other Member wish to speak on any of the individual regulations? Yes, Deputy Duhamel?

9.2.1 Deputy R.C. Duhamel:

Just one point, Sir. I should really know but I have not asked. Under 3, part 6 it does suggest that the Minister, which is the Minister for E.D.D. will be determining the licences and the classes. It says under 6.2, for the purpose of paragraph 1: "Determination may be made with regard to such matters as the Minister thinks fit, including, without prejudice to the generality of that term, size of the boat, method of fishing, specified area in which fishing is authorised and description of sea fish that may be taken." I do hope that, although it is not expressly suggested within the law, the

regulations, that advice will be taken by the Minister for Economic Development in terms of the environmental considerations about fish stocks and things like that, that are of concern to my department.

The Bailiff:

Does any other Member wish to speak on any regulation? Deputy Young.

9.2.2 Deputy J.H. Young:

I have concerns over the use of the website and Article 4. Although what the Assistant Minister said sounds eminently reasonable in that fishermen would have a choice, the draft that we are asked to approve allows the Minister to suspend or revoke somebody's licence by putting the notice on the website, and I think that really strikes me as being real Big Brother.

[14:30]

I mean, to me, if people have to have licences to do things, they are entitled to be informed in really practical ways, but I think where that notice is to their detriment, the onus is on the authorities to do more than put it on a website and rely on somebody seeing it. So I have got real problems as a principle. If we did this on other laws, I would be really troubled, and it strikes me that this may well be just a device for saving money for administrative convenience, so I would not want to see it extended. But I think I am highlighting a discrepancy between the very reasonable position that the Assistant Minister explained to us and the law that we have passed that says something different. I think as a principle we should not be in that situation.

9.2.3 The Connétable of St. John:

Following on from Deputy Young, I wholeheartedly agree with what he has said and, in particular, when I see that only 67 per cent of the fishermen that were consulted voted in favour of this law, that means around about a third of the fishermen are opposed. I wonder, of that third, how many of them are skilled in computer use. There are a number of States Members in here, including myself, who are not skilled in computer use. I know the hours that these boys and girls have to work, very unsocial hours which creates all sorts of problems for other people, but that is their living, these people are not on the dole, they are out there making a living. To expect people who are men of the soil, in this case men of the sea, who are out there in all conditions, to come home and have to do something on a computer if they are not skilled in that area, I think is totally unfair and so therefore I will not be supporting these propositions.

The Bailiff:

Does any other Member wish to speak? Then I invite the rapporteur to reply.

9.2.4 The Deputy of Grouville:

Thank you. I was a bit taken aback by Deputy Duhamel's question, seeing as I sit as an Assistant Minister for his Environmental Department [**Approbation**] as well as E.D. (Economic Development) and we sit together on the Marine Resources Panel, whereby we meet with the fishermen and the environmentalists who have concerns over any aquaculture industry, so obviously all elements of both the industry and the environment will be taken into account. We meet quarterly to remind us to take all elements into account, and he attends those Marine Resources Panel meetings. So yes, the environment concerns are taken into account. Deputy Young was a little taken aback by some of the things that the law can do: suspend, revoke, et cetera. What this proposition is doing is just really removing the option to advertise in the *Jersey Gazette* and substituting that for a website. Everything will be exactly the same but, instead of requiring the fishermen to look at the *Jersey Gazette*, they will then be required to look on a website. To take on board the point that the Constable of St. John said, the website is there and will

be in use for those who want to use it, but also all the notices will still go up and will be displayed on the notice board at La Collette Marine Resources. So they will have a physical notice board or they can access the website, it is up to them, but the administrators will still be there and, if they requested something to go to them in writing because neither would suffice, and certainly for important issues, the fishermen will still be written to in person. All this is doing is substituting the *Jersey Gazette* for a website.

The Bailiff:

Very well. All those in favour of adopting Regulations 1 to 6 ... the appel is called for in relation to Regulations 1 to 6. I invite Members to return to their seats and the Greffier will open the voting.

Deputy J.H. Young:

Could I ask for Article 4 to be taken separately?

The Bailiff:

Yes, of course. Very well, then in which case, I am so sorry, the Greffier should cancel that because the request only came late. So the first matter then is Regulations 1 to 3. Is the appel called for in relation to Regulations 1 to 3? So all those in favour of adopting Regulations 1 to 3, kindly show? Those against? Those regulations are adopted. The appel is called for then in relation to Regulation 4, which will be taken separately, so now the Greffier will open the voting on Regulation 4.

| POUR: 36 | | CONTRE: 4 | | ABSTAIN: 0 |
|-----------------------------|--|-------------------------|--|-------------------|
| Senator P.F. Routier | | Connétable of St. John | | |
| Senator A. Breckon | | Deputy M. Tadier (B) | | |
| Senator S.C. Ferguson | | Deputy M.R. Higgins (H) | | |
| Senator A.J.H. Maclean | | Deputy J.H. Young (B) | | |
| Senator B.I. Le Marquand | | | | |
| Senator F.du H. Le Gresley | | | | |
| Senator I.J. Gorst | | | | |
| Senator P.M. Bailhache | | | | |
| Connétable of Trinity | | | | |
| Connétable of St. Clement | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Martin | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of Grouville | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy of Grouville | | | | |

| | | | | |
|-----------------------------|--|--|--|--|
| Deputy J.A. Hilton (H) | | | | |
| Deputy J.A.N. Le Fondré (L) | | | | |
| Deputy of Trinity | | | | |
| Deputy S.S.P.A. Power (B) | | | | |
| Deputy S. Pitman (H) | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy A.K.F. Green (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |
| Deputy G.C.L. Baudains (C) | | | | |
| Deputy of St. John | | | | |
| Deputy J.P.G. Baker (H) | | | | |
| Deputy S.J. Pinel (C) | | | | |
| Deputy of St. Mary | | | | |
| Deputy R.G. Bryans (H) | | | | |
| Deputy R.J. Rondel (H) | | | | |

The Bailiff:

Now, is the appel called for in relation to the remaining 2 regulations, Connétable? Very well, and no one wants them taken separately. So all those in favour adopting Regulations 5 and 6, kindly show? Those against? Regulations 5 and 6 are adopted. Do you propose the regulations in Third Reading, rapporteur?

The Deputy of Grouville:

Yes, Sir.

The Bailiff:

Is that seconded? **[Seconded]** Does any other Member wish to speak in Third Reading? The appel is called for in relation to adopting the regulations in Third Reading and the Greffier will open the voting.

| POUR: 38 | | CONTRE: 2 | | ABSTAIN: 0 |
|-----------------------------|--|------------------------|--|-------------------|
| Senator P.F. Routier | | Connétable of St. John | | |
| Senator A. Breckon | | Deputy J.H. Young (B) | | |
| Senator S.C. Ferguson | | | | |
| Senator A.J.H. Maclean | | | | |
| Senator B.I. Le Marquand | | | | |
| Senator F. du H. Le Gresley | | | | |

| | | | | |
|-----------------------------|--|--|--|--|
| Senator I.J. Gorst | | | | |
| Senator P.M. Bailhache | | | | |
| Connétable of Trinity | | | | |
| Connétable of St. Clement | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Martin | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of Grouville | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy of Grouville | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy J.A.N. Le Fondré (L) | | | | |
| Deputy of Trinity | | | | |
| Deputy S.S.P.A. Power (B) | | | | |
| Deputy S. Pitman (H) | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy M. Tadier (B) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy M.R. Higgins (H) | | | | |
| Deputy A.K.F. Green (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |
| Deputy G.C.L. Baudains (C) | | | | |
| Deputy of St. John | | | | |
| Deputy J.P.G. Baker (H) | | | | |
| Deputy S.J. Pinel (C) | | | | |
| Deputy of St. Mary | | | | |
| Deputy R.G. Bryans (H) | | | | |
| Deputy R.J. Rondel (H) | | | | |

10. Draft Income Support (Miscellaneous Provisions) (Jersey) Regulations 201-(P.101/2013)

The Bailiff:

Very well, we then move to the next matter on the Order Paper, which is the Draft Income Support (Miscellaneous Provisions) (Jersey) Regulations 201-, Project 101/2013, lodged by the Minister for Social Security. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Income Support (Miscellaneous Provisions) (Jersey) Regulations. The States, in pursuance of Articles 3(3), 5(4) and 5, 8 and 18 of the Income Support (Jersey) Law 2007, have made the following Regulations.

10.1 Senator F. du H. Le Gresley (The Minister for Social Security):

Members will be aware that Jersey continues to face challenging economic conditions. As a result, Islanders are experiencing a level of unemployment that is without precedent in recent history. The Council of Ministers has responded to this challenge with investment in a package of Back to Work schemes that allows my department to provide a wide range of support to people who are looking for employment. We have a great many success stories to share. Last year, over 1,300 people received offers of paid work as a result of engagement with Back to Work and the running total to the end of August of this year has already reached 1,200 people who have been offered paid employment. We are very pleased with the success of Back to Work, but it remains the case that unemployment is still a significant problem for our Island. We will shortly enter the first winter without the seasonal employment offered by the fulfilment industry and there are over 1,800 people registered currently as unemployed. Approximately 1,400 of these people, roughly 70 per cent, depend on the income support benefit to meet everyday living costs for themselves and their families. Income support is an in-work benefit, meaning that any adult in receipt of the benefit is required to be in paid work or be exempt for a number of reasons. People above the age of 65 or those who cannot work due to illness, disability or their caring responsibilities are not expected to look for work. Young people in full-time education or training are not expected to look for work. All other adult claimants are expected to look for suitable work as a condition of receiving income support. The vast majority of jobseekers do everything they can to find work but, unfortunately, there is also a minority of people who are willing to receive payment without upholding their end of the bargain. They are, I stress, a minority but I was shocked to learn when appointed Minister how often my offices are required to deal with people who do not turn up to interviews, walk out of work when it suits them and only engage with the department weeks after they have received repeated warnings that their benefit is at risk. Financial penalties for failed jobseekers do already exist under Income Support legislation, but it has become clear that the existing legislation is not tight enough and that it is being taken advantage of by some claimants. These people remain in a cycle that sees them engaged with my department as and when it suits them and developing habits that will not prepare them for the rigours of paid employment. Currently, we issue 200 warning letters per month. On average, 20 individuals ignore the warnings and have their adult component of income support reduced. A further 9 people each month will have their claims closed, however, it is jobseekers under the age of 25 who account for 53 per cent of all warning letters issued by my department. A recent sample of claims being closed under the existing sanctions showed that all of them were single adults and 80 per cent were under the age of 25. The new sanctions I am proposing today will address these people directly. With these changes to the Income Support regulations, we aim to create a deterrent - a fair deterrent - to help jobseekers understand their financial support from the taxpayer is conditional on taking personal responsibility and that this involves actively engaging with the department to look for suitable work. Unemployment cannot

be a lifestyle choice in Jersey. We are asking no more than would be expected of any working person and so no more than can be reasonably expected of any person relying on benefits paid for by taxes collected from working people and from those who have retired after a lifetime of paying into the system. These new regulations create a system where people who repeatedly breach the conditions of their job-seeking agreement will firstly receive a warning letter which remains in force for 12 months. If they fail to heed this clear warning, the income support adult component, which is currently £92.12 per week, will be stopped for 2 weeks. A further breach will lead to the adult component being removed for 4 weeks and, finally, a third breach will result in all income support payments to the household being stopped for 6 weeks. At each stage, people will receive a clear written summary of the actions they need to take in order to avoid further penalty. All of our employment support remains available throughout every stage of the process. At the stage of the third breach, there is a total withdrawal of income support benefit from the household. I am, of course, mindful that there may be circumstances where a person with a family to support nevertheless decides to ignore the series of formal warnings that lead to a complete withdrawal of benefit. Copies of these formal warnings will also have been sent to their partner and every adult member of the household. In these situations the Minister, that is myself at the present time, has the ability to create an exceptional payment to support only the other members of the household. This support would be dependent on all of the circumstances of the household at that time. At the time of the third breach, the department will write to the claimant, and the claimant's partner where applicable, explaining the removal of income support and the steps that need to be taken to comply. I must stress that any person at this stage would have previously received numerous warnings, verbally and in writing, to inform them of the consequences of continued non-compliance.

[14:45]

The new system is intended to function primarily as a deterrent and we expect the clear financial penalties available will be used infrequently and only when all other options have been pursued. They will also be simpler and cheaper for my officers to administrate. We are sufficiently confident in the power of this deterrent that we do not expect to make financial savings other than those that come from more people leaving the benefit system to support themselves through paid employment. We will continue to provide help, advice and training towards this goal, but that support will be backed-up by real consequences for those who choose not to take it. A new sanction will also be introduced for people who leave work without good reason. This sanction will result in the loss of the adult component of income support for 13 weeks, although payments for rent and children will still be available. I hope Members will agree that it is simply not acceptable to leave work out of choice and expect to be supported by the taxpayer. We do not intend to penalise people who are made redundant or who cannot continue in work due to sickness or caring responsibilities. We have no intention of penalising vulnerable people who will continue to be identified by my officers to receive special assistance. What does or does not constitute good reason for leaving work is defined in well-established benefit systems in the U.K. and elsewhere. Determining officers from my department will assess situations in terms of what is considered reasonable behaviour and weigh the available evidence against the balance of probabilities. It is important to state that the concept of balance of probability is not the same as beyond reasonable doubt, which is a standard test of proof in criminal trials. Weighing the balance of probability is a lesser test which works in favour of the customer. It involves deciding whether it is more likely than not that an alleged event or incident occurred. Some Members may ask why is it necessary to change the rules to cover a minority of people, but it is important to understand the wider consequences of this inappropriate behaviour. For these individuals, lengthy periods of joblessness affect their chances of securing paid employment in the future which in turn increases their dependence on tax-funded benefits. It is surely in the interests of all islanders for our benefit system to encourage self-sufficiency so that people are equipped to leave the benefit system and

support themselves. We also wish to ensure that employers have confidence to give local jobseekers priority and are worthy of their trust, a position that is weakened when some people choose to leave a new job because they would prefer to rely on the benefit system. We already do a tremendous amount of work to address the many misconceptions about unemployed islanders and I feel that these new sanctions will help to increase the credibility of our Back to Work programmes. It is also reasonable for Members to ask how we can be sure that these new financial penalties will target the right people for the right reasons and not affect people who are unable to find work through no fault of their own. I am confident that these new regulations have been developed with an intensive focus on the types of situations that commonly cause people to fail to be actively seeking work and so clear guidelines have been created that will allow my staff to make fair decisions. We already have great experience in addressing the personal barriers that affect employability, and the cornerstone of our support is the personal relationship between the jobseeker and their personal adviser. I can reassure Members that the decision to apply a financial penalty is one that will normally be taken by a member of staff who has worked closely with the jobseeker and who has repeatedly warned him or her what they must do to avoid penalty. Of course, there will always be cases that are more difficult to assess, such as occasions where a person gives up work because they feel they have been harassed or discriminated against. We recognise that these situations are rightfully of concern and so my senior officers are working closely with the Jersey Advisory and Conciliation Service to ensure that such cases will always be assessed fairly and reasonably. The most difficult cases will receive special attention from a group made up of senior officers who will ensure consistency of decision-making and keep our guidelines up-to-date. Nobody should be expected to take up or remain in work that is unsafe or inappropriate. The new financial penalties are not designed to address people who genuinely find themselves in difficult situations or to catch all situations in a one-size-fits-all approach. They are designed to offer an appropriate response to situations where people are obviously failing to meet their responsibilities. In all cases, claimants will have the right to ask for a second determination by an officer who was not involved in the original decision and, finally, the right of appeal to an independent tribunal, as is currently the case with all appeals against decisions taken by my officers in connection with the assessment and adjudication of income support claims. The appeal process is arranged by the Judicial Greffe and is completely independent of the department. Our statistics show that only 1.5 per cent of decisions are at present challenged by claimants and a fraction of these reach the stage of an independent appeal. 28 cases have reached appeal since the start of income support, of which only 3 were found against the department. It is worth noting that not a single one of these appeals was brought against a decision that a person had failed to actively seek work. All actively-seeking work challenges so far have been successfully resolved before the appeal stage, either by an explanation of the decision or through the opportunity for the customer to present further evidence. The working relationship between the personal adviser and the client means that there will not be a situation where a person is unaware of the reasons for their decision. In summary then, these revised income support regulations increase the powers of my department to address jobseekers who do not comply with the terms under which they receive income support benefit. They provide new, clear powers that create financial penalties for those people who are required to look for work but do not do enough to find it. They also provide powers to address those people who choose to leave work without good cause and then rely on tax-funded benefits to support them. In addition, the regulations contain minor changes that prevent people from continuing to have their accommodation paid for when all adult members of the household are absent from the Island for longer than 4 weeks, or for similar periods where all adult members are in prison or in hospital. They also clarify the matters that must be taken into account when awarding the medical component for a person and clarify the rules for assessment of a person who suffers from epileptic seizures. In conclusion, I hope Members will support the adoption of these regulations for the same reason that my department felt it necessary to bring them. They are not designed to save money

and they are not designed to penalise people who find themselves unemployed through no fault of their own. Changes are needed because the evidence shows that under the current rules we do not have adequate powers to prevent a small minority of jobseekers from abusing the system. It is simply not right that people should be able to rely on the taxpayer to fund their living costs when they are unwilling to uphold their end of the bargain and take reasonable steps to find work. The taxpayer is funding not only the costs of the benefit but also the costs of the employment services we provide. We will continue to do everything we can to help people get back to work, but these new regulations, if approved today, will send out a clear message that there are potentially significant financial consequences for those people who refuse this offer of help. Sir, I propose the regulations.

The Bailiff:

Are the principles seconded? [**Seconded**] Does any other Member wish to speak on the principles? Deputy Martin.

10.2 Draft Income Support (Miscellaneous Provisions) (Jersey) Regulations 201-(P.101/2013) - reference to Scrutiny under Standing Order 79

10.2.1 Deputy J.A. Martin:

I have got some very grave concerns about this and it would be totally remiss of me as the Assistant Minister for Health and Social Services with responsibility for children not to say so. I was at the meeting at St. Paul's where we went through a presentation and the household being deprived of every penny and their rent not being paid was very played-down, to say the least. The wider consequences... you heard the Minister say that he will have discretion, but the wider consequences on the partner with the children is they do not have any food to eat, they will not have any money for electricity that week. Most of these people, a lot of them, have electricity keys. There are other things that the Minister said at the meeting that he would take on board about what is the definition of: "Leaving work." I will not go on because I really have grave concerns. I could not speak to the Deputy of St. Peter, who is the Chair of Scrutiny, so I would like to invoke Standing Order number 79 to suspend this so it is sent to Scrutiny with the House to see exactly who this will affect. It is not done in the U.K., you cannot touch the children or the partner that is not complying with the actively seeking work. We are taking it a step further. The Minister also said it is not really targeted, he does not want to target these people; well, why bring such a draconian set of regulations? I would like to invoke Standing Order 79, thank you, Sir.

The Bailiff:

Very well. Is that proposition seconded? [**Seconded**] So the proposition is in the form of Standing Order 79, which is that any Member of the States may propose without notice that (a) the debate on the proposition be suspended and (b) the States request the relevant Scrutiny panel - which in this case is the Health, Social Security and Housing Scrutiny Panel - to consider having the proposition referred to it. The position will be that, if it is passed, then at the next sitting the Scrutiny panel must come back and say whether it wishes to have the matter referred to it. So that is the matter now before the Assembly, so it is rather like a reference back, we now debate that proposition lodged by Deputy Martin. So does any Member wish to speak?

10.2.2 Senator F. du H. Le Gresley:

I am disappointed that this proposition for reference back should come from Deputy Martin who attended the presentation, as she quite rightly said, last week. I still have the slides from that presentation and Members were given the opportunity to take those slides away, and there are slides there that quite clearly show that the third sanction would result in the removal of all the income sources to the household and that the Minister has discretion to pay money to those

members of the household other than the failed jobseeker. So they were there in the slides, it was explained. I am also very disappointed with the email that was circulated to Members from Deputy Southern who, as we know, cannot be here this afternoon. He said he was unable to attend the presentation and it was only at the last minute he realised the implications of the regulations. With respect to Deputy Southern who is not here to answer, but we all know his great interest in the workings of Income Support. He regularly lodges at least 3 or 4 questions each session on that very subject. I find it hard to believe he would not have studied this amendment in great detail, and if he was so concerned he should have brought an amendment which he failed to do. However, he is not here to comment on that. But it is clear that what is being proposed, and I did have it in my speech, is set out on page 9 of the report in the first paragraph, and it is a fact that our proposals have been through a comprehensive human rights audit. This is a very unusual thing to do for a set of regulations because human rights audits are not normally required other than for primary law under our current rules. But I was particularly anxious that we did check human rights on this particular aspect of sanctions. We have done that and we have had clearance under this human rights audit. Where are we left with if Members accept the reference back? We have done a presentation to our Scrutiny Panel. There were no issues as far as I am aware and unfortunately only one member of that panel is present today, but there were no issues raised by them subsequent to that presentation, or necessarily during the presentation that we could not answer or respond to. Members have to decide, and I do believe that my regulations that I am proposing today, is a political decision. Where can the Scrutiny Panel go to get further research done, other than perhaps do a straw poll of a thousand people around the Island, as to whether they think it is fair that benefits should be ultimately removed for people who do not comply with job seeking requirements? Where else can you go for the Scrutiny Panel to review this piece of legislation? I suggest there is nowhere else to go, we have to, we are elected to make decisions. This is purely a political decision; do we wish to tighten up or are we happy that people can basically claim a benefit without sanctions, or effective sanctions, which is where we are at the moment? I can say no more than that and I hope Members will reject this proposal.

[15:00]

10.2.3 Deputy T.M. Pitman:

Just a few brief points and I want to totally support what Deputy Martin said. But if there is a human rights audit then why can we not all see it? That would be helpful. Where is it? Where are the Scrutiny comments because those would be helpful? What concerns me is that with Jobseeker's Allowance ... and I think the Minister is being a bit disingenuous when he tries to give the impression that anyone challenging this is saying that we do not want sanctions on people who deliberately flout the rules because I do not think there is anyone here who would support people flouting the rules. But I know from a case that both Deputy S. Pitman and I have got right now; a gentleman who has already been massively over-penalised for failing, if you can call it that, the Jobseeker's Allowance, but then, having suffered a serious injury and suffering severe depression and stress, that needs to be taken into account. But when I phoned-up the department on the part of this gentleman, I was told: "Well, it is only £90." Only £90 with 3 kids. I am afraid I am like Deputy Martin, I cannot sit by and support something that is going to see children at home sitting in the dark, as she says, without food in their mouth. It is fine, the Minister has got discretion but he is a Minister who rarely uses that discretion, it has to be said. So I would say that this does need to go back for some further work, and let us be fair, Minister, Deputy Southern is a Member who works his socks off. We all miss some things. How many times do we see the Ministers put forward something that really has been thrown together on the back of a fag packet? So we all make mistakes. Surely it is about getting it right, and I think what Deputy Martin is suggesting is quite a common sense answer. It is not going to delay this by too great a period so I would just ask

the Minister perhaps to accept what the Deputy is suggesting and give Scrutiny a chance to look at this and see if it may be ... any problems may be able to be ironed-out. Thank you.

10.2.4 Deputy M. Tadier:

I think the Minister has hit the nail on the head that it is not the principle of this that anybody is objecting to, I do not think. We all agree with the principle that you should work if you can and you should not expect hand-outs from the Government and use that as a lifestyle. No one is saying that, but this piece of law, what is being proposed here has ... will have consequences and it may have unintended consequences and like anything that we debate in the States, the devil is in the detail. As one of the Members who did go to the presentation, the recurring questions were all of a similar thrust. We are being told that there are guidelines in place. We are being told about appropriateness, about reasonability. But we have not seen those guidelines. We are told that the staff have guidelines, I think that is what the Minister said. He did not say they will be issued guidelines, he said they have guidelines already. The first thing I would want to know is, can we see those guidelines? We need to know how they are going to be applied and what they actually say. But we are also told by the Minister that they are in consultation with J.A.C.S. (Jersey Advisory and Conciliation Service) at the moment. So if you are in consultation with somebody like J.A.C.S., how do we have the guidelines written already if the guidelines will need to be dependent on the consultation that happens with J.A.C.S.? It seems that something is inconsistent there. At the meeting on Tuesday, which was one week ago now, the Minister said, when concerns were raised, that he would take this all as feedback, and I think he hopefully has done that. But in a week, what changes has he been able to make? Several of us raised concerns because ... let us take the very small example, one of the examples about leaving work for not a good reason. We were given on the one hand, what is a good reason for leaving work? Being made redundant. Okay, that is quite clear cut. Another reason which is not good for leaving work is: "I cannot be bothered to do this any more. I do not like getting up in the morning." That is clearly ... it is clear cut. But there of course is a whole issue, a whole spectrum of grey area in the middle that may focus on constructive dismissal. We asked the Minister at that meeting, what happens if somebody who may have in the past got on the wrong side of the department, who may not have been following all the guidelines, was involved in one of these cases where he did not get on with the boss for very good reasons and he had to leave or she had to leave because it was ... they could not carry on working there, they could not tolerate the atmosphere. For all sorts of reasons. How do you prove that? What happens if you are pursuing your own tribunal with the Employment Tribunal? In that 6-week period, in that 3-month period where you are waiting for your case to be heard, the Social Security Department may have already decided: "We are going to cut your benefits for that time. We think that you were wrong to leave your job." Only 3 months later to find out that individual has been vindicated. Do they get paid for those 3 months? We do not know. This is not clear. The Minister has told us this is discretionary. That simply will not do. You cannot have something like that for discretion. Then, the other question is, how do they live in the meantime? How does the family live in the meantime? We have been told that if somebody walks out of the family, they may get kicked out by the wife who said: "Look, you are a good for nothing, you can leave the family home now." How does that help make cohesive families? Somebody can come back to the household, as soon as they come back to the household they are facing their benefits being cut again. We are dealing with very complicated situations. We have got many more long-serving States Members than myself in here who no doubt have had to accompany people to Social Security on various appeals for day-to-day issues that come up, and we have some very good staff at Social Security, I am thankful to say. But they are also human. Do we really expect that this is going to create less work? Are we going to be going along to more and more appeals to have things challenged? Is this a good use of time, of States Members' time? But also of the Civil Service and the individuals who are potentially vulnerable. I simply would like to hear from

Scrutiny. Where are the Scrutiny comments? That is not a criticism but I would expect Scrutiny to have looked at this, and when individuals like the, essentially, the Children's Minister, like Deputy Southern, who has got a keen interest and I think was the chairman of a previous Scrutiny Panel, are raising serious concerns, alarm bells should start to be ringing. I would hope that the Minister would take these comments, use this as the feedback, go away, let Scrutiny look at this, let other Members work with Scrutiny, perhaps be drawn on to the sub-panel and let the proposition come forward with all the details being presented and ironed-out. So I think there is a case. I think this is quite rightly to be referred back to Scrutiny, but also we need specific information about the guidelines, about who is going to judge, about the appeal processes that will be put in, and about what happens to people while they are waiting, and if a decision is overturned, what happens to their claim in the meantime?

10.2.5 Deputy J.A. Hilton:

The Chairman and I both attended the briefing and the Scrutiny Panel, with the Deputy from St. Ouen present, did have a briefing with Social Security. Our opinion was that we did not feel that the sanctions being proposed were disproportionate. We believed that the Social Security Department were giving claimants enough chances, whether it was through verbal warnings or written warnings, to amend their behaviour, to be fair in the circumstances. I think the Minister said that 80 per cent of the claimants they are currently having difficulties with are under the age of 25. Personally, I think it is very important that we send out a very clear message from the States Assembly that we will not support young people to sit around on their backsides all day while the taxpayer funds their lifestyle. **[Approbation]** So from a Scrutiny point of view, we decided that we felt this proposition was fair and reasonable. I do take on board what Deputy Martin has said about the whole household being penalised for the behaviour of one, and I do understand where those concerns are coming from. I do not know the exact number. We have been given like 80 per cent under the age of 25. I do not know how many historically, how many families have breached the guidelines but it is being indicated to me that it is zero. So on that basis I am still of the view that this is fair and proportionate. The Minister mentioned that he is working with J.A.C.S. with regard to people leaving their employment citing bullying or harassment. He is currently working with J.A.C.S. so that cases can be assessed fairly and reasonably and consistently which I think is to be commended. That is the right way forward. So from a Scrutiny Panel point of view, taking into consideration the volume of work we are currently undertaking, we would not really wish to scrutinise this. What I would say to Members is, I do not feel that the scrutiny process has an awful lot more to offer to this proposition, to be quite frank with you. It is a political decision, it is up to every Member in this Assembly whether they feel that the proposals are fair, and if they do believe that they are fair and that there is enough ... the Minister has the ability to make a decision. I have to say from a personal point of view, I am going to say this because quite often the officers in the Social Security Department do get a little bit of a roasting from some Members in this Assembly. I have to say, of all the cases I have taken to Social Security, I have received ... I have been more than satisfied with the way the case has been dealt with, we have been dealt with sympathetically. I have no reason to believe that the Minister will not look at those very, very, very few cases that this might apply to, that he will use his discretion, and I do believe that. So I think ultimately it is down for every single Member in this Assembly now, whether they vote for this reference back to the Scrutiny Panel, that is their decision. But from a Scrutiny Panel member's point of view, I do not believe that there is an awful lot we can bring back to the table. Now, it may be a decision of the Assembly that they could take, I think it is 5(e) that was the problem, maybe a vote could be taken on that separately. That would be down to the Minister. He is nodding his head. So, that is the way ... but I will be guided by the Assembly. If the Assembly votes for this to be referred back to us then obviously we will produce a paper. Thank you.

10.2.6 Deputy M. Tadier:

Sorry, could I seek clarification from the previous speaker? Does she accept that a Scrutiny Panel is not there just to say whether they like the principle and whether a proposition is fair but also whether it can be improved, or if there are flaws in fact which may be that the proposition does not do fully what it sets out to do? Can the speaker from Scrutiny advise whether or not Scrutiny has looked at any of those specific areas I mentioned to do with what are the guidelines? What was the human rights audit, et cetera?

The Bailiff:

I think that is the clarification you are seeking, Deputy, yes?

10.2.7 Deputy J.A. Hilton:

No, we did not look at the human rights, that is not something that we have looked at in anything that we scrutinise. As the Deputy knows, Scrutiny is fact-based. Again, I come back to, it is a political decision. If you do not agree with it, vote against it. I really do not see what more we can bring to it but I will be guided by the Assembly.

10.2.8 The Connétable of St. Brelade:

I have to apologise to Senator Le Gresley because I was not ... sorry, the Minister, because I was not at that meeting and it is one of the few that I have not been at. I support virtually everything in this proposition. I mean, I am somebody that did not think the previous law was tough enough, it needed changes. It is taxpayer's money and I think we need to ensure that we spend taxpayer's money in the right way. But he did say that he did not want to penalise vulnerable people, and the only part of this legislation that I find a little bit hard to swallow is 5(e) because it does leave the final breach in the discretion of the Minister. I feel totally uncomfortable with that. Everything else in it I agree with but I just think that there does need to be some clarity in that final part. I think we do need to decide whether we wish to leave that there or there needs to be some other regulation in place to ensure vulnerable people - partners or children that may be affected by some work-shy individual - are not suffering. So I am going to support the reference back, I think there is some work Scrutiny can do with this whether they like it or not. It has happened to me with the Economic Affairs Panel and sometimes you have to take work on that you do not particularly like. But this is something I think desperately needs having a look at and I will be supporting the reference back.

[15:15]

10.2.9 Deputy M.R. Higgins:

I think one of the points that needs to be made so it is quite clear to everybody; there is no one who believes that people should just be able to live on the benefit when they could have a job. **[Approbation]** That point needs to be sung out. So even if people have got criticisms or concerns about what is being put forward, they are not supporting the work-shy. That should be crystal clear. My concern echoes some of the others that have been made about the human rights aspect. Senator Le Gresley has told us in this particular case he has sought human rights guidance. Now, if he sought it, it may not be usual for a Scrutiny Panel to see it or ask about it, but in this case the Minister said he sought it: let us see it. My concern is that my understanding of human rights is that one of the reasons for the Human Rights Act and various conditions was to stop unfettered discretion. In other words, there is supposed to be guidance issued, there are supposed to be rules that are there and when we talk about proportionality, how can you have proportionality if there are no rules, there is no guidance? How do you know it is being applied correctly? So the human rights law is to prevent abuse by civil servants or Ministers acting arbitrarily. So I would like to see the evidence and ask Scrutiny to examine that or the States to delay this until such time as we have seen the information and can make a firm decision as to whether it is fit for purpose.

10.2.10 Deputy S. Power:

I would like to preface my remarks, first of all, by saying that Social Security is not an area that I have worked on as much as other States Members. My areas of political interest and responsibility have been in other areas such as planning, housing, freight. In my time in this Ministerial Government, Senator Le Gresley gives me the impression that he has always led his department by example and has always been thoroughly briefed and has a mastery of his brief in the last 2 years. **[Approbation]** I doubt that Senator Le Gresley would come to this Assembly without him being comfortable with the consequences of any amendment or any report and proposition that he would bring to this Assembly for approval, and I find that in my value judgment of Senator Le Gresley's track record in the last 2 years, my view is that he is a highly competent Minister who has brought a reasonably realistic and needed amendment to the Draft Income Support provisions. A change, I should say. He has made it clear to the Assembly where the department has reservations about people leaving jobs, and indeed I missed the briefing as well, for something else I had to do, and Deputy Hilton made it clear that this largely applies to those who are under 25. In my view, given the information we have, I do not need any further information to support this. I am happy to support the department and Senator Le Gresley in this area, and I think it is strange in some ways that we would ask the Assembly to drop or parachute this on top of the Health, Social Security and Housing Panel when the gestation period for this thing has been out there for some time. I will finish on this; at the ... I normally do not pick up on things that are said at a Conservative Party conference but I do remember part of the speech that George Osborne made where he said that there were concerns within the U.K. Government that Income Support and Social Security, or the U.K. version of it was becoming almost a lifestyle choice. I think part of what Senator Le Gresley is trying to do today is - and I agree with my Constable on this - trying to close one other area of potential abuse of the Income Support system in Jersey. There have been 3 references now to section 5(e) which refers to the consequence of a third or final subsequent breach. It says that during the period it is a third warning or a third breach in subsequent order, and: "For that period the person in breach shall not be eligible for any payment." I think this is reasonable and I will be supporting the Minister for Social Security.

10.2.11 The Connétable of St. Peter:

I am fortunate enough to have had a very brief chat with Deputy Tadier earlier on, on this particular topic, and it reminded me of the predecessor to Income Support which was Parish Welfare. In the time before I became Constable of St. Peter I was the Procurer and I used to deal with Parish Welfare. It was a great shock to me really to find that we had people who were almost generational claimants where the parents were claimants for welfare, so the children did so as well. It was ... the particular ones that disturbed me were the ones that had left school and never got a job and came in expecting Parish Welfare. The great difference that we had in the Parish, we relied on a lot of local knowledge as well about what was going on in the background with these people. But we also applied sanctions on, particularly, the young ones who did not want to work and reduced their welfare to a point where they ended up having nothing or we gave them a broom to go on the roads. The problem with that is we could only get them to work for 8 hours otherwise we infringed the employment laws as well. But certainly ... so what really the Senator is bringing forward in Article 5(e) is not something new. It is something that we have done before and we did it without the, shall I say, protection of law within the Welfare system. But at the end of the day, if the Minister does not have the ability to apply the final sanction to get people to be responsible for their actions, then what does he do? Do we just say at the end of the day: "Well, we will just keep paying our Income Support no matter what these people do"? I also share Deputy Martin's views about the families. What about the families that will be impacted on this? This is going to be a very skilful judgment which the Minister is going to have to make. He is going to have to put the welfare of the family possibly above a defaulter on the Income Support. We did the same in

Welfare and I was not a Minister so if it could be done under Welfare, it can still be done on Income Support. Thank you.

10.2.12 Senator I.J. Gorst:

It cannot be surprising that at a time of economic difficulty many jurisdictions, certainly in Europe, are asking themselves about the quantum of the benefit and welfare bill and whether it is appropriate. I do not think that, thankfully, we have had the outrageous accusations against our Welfare Bill that we have seen perhaps by some commentators across the water, and I think that is because we have always tried to build and strengthen the contract between the taxpayer who is funding Income Support and these benefits, and the benefit recipient. I think in this Assembly Members have, when commenting on the benefits bill, been appropriate and understanding and recognising that taxpayers have an obligation to support those in need within our community, particularly when they are out of work. This Government, as Members know, has spent many tens of millions of pounds in extra resource in bringing forward schemes to help those out of work into work. At the same time through - as the economists would call it - automatic stabilisers, more funds have been put into Income Support to help those families which have found themselves in difficulty over the economic downturn. That is important, and it is important that we continue to strengthen that contract. Why do I make those opening remarks? It is quite simply because the measure that the Minister for Social Security is proposing today needs to be put in place to strengthen that contract. Over the course of the last number of months, I have found myself in a position where members of the public and employers have been suggesting to me that no matter how many millions of pounds we have put into our schemes in support of those who are unemployed, providing the appropriate training, providing the appropriate motivational courses, providing the appropriate work experience programmes, providing the appropriate mentors... A number of people have said that those people still will not work and do not want to work. It is important that we continually review our system to make sure that that is not happening. Over the course of the last 7 days, the latest of ... I think it was 7 days, it was probably towards the end of last weekend. Yesterday afternoon in a meeting, 2 employers which I consider to be exemplar employers who have worked with Social Security, who have taken on people who have barriers to employment, who have spent a lot of time and money and effort into encouraging 2 particular individuals into employment... Employing them, going out on a limb and doing all that they could to give those individuals a future. After 6 months or 8 months, in another case, those individuals turned around and said to them: "I am sorry, I just cannot do this job, I am resigning." I have to say that I believe it is incumbent upon Ministers and it is incumbent upon this Assembly to make sure our system does not allow that sort of decision-making whereby people, albeit a minority, as the Minister has said... and I only have those 2 recent cases from employers. We should not have a system in place whereby that contract between taxpayer and benefit recipient is so broken down or breaks down to such an extent that individuals feel it is more profitable for them to give up a job and receive a benefit.

[15:30]

I think that that is what we should focus on this afternoon, as difficult as it is to say. This Assembly is paying, in some instances, employers to take these people on and to create jobs for them, and if that is happening we should make sure that there is ... it is not possible for those individuals then, at the end of those programmes, to simply resign and go on to benefits. It cannot be right. It is not right and we should allow the Minister to make sure that those decisions are not being made. I think the Minister also said, in his remarks, and if he did not it is certainly my understanding, that to date the only people for whom benefit has had to be withdrawn is for those under 25s or single individuals not with families, and the Minister has also given an undertaking that if it were in future to be the case with a family, then of course he would consider that. But if

we do not allow the department to have this final sanction we can stand in this Assembly and say as many times as we like that we do not support the work-shy, that we do not want people to take advantage of the system. But unless we allow the Minister to have that ultimate sanction, unless we put teeth into the system, then I fear that some of the good work that is being undertaken in engaging with employers, employers creating opportunities, employers putting time and money into supporting the unemployed, we will fail, and I am not prepared to allow us to be in a position where we fail the members of our community who are currently out of work. Therefore, this is a political decision. Do we want to give the Minister the teeth in the system, the ultimate sanction, which he has said he will use extremely carefully and in the most exceptional of circumstances? Do we want to give him that or do we not? That is the simple question that we have to ask ourselves. Do we want to make sure that the right decisions are being made by individuals; that we are putting in place all the support to get people into work? But ultimately, they have a responsibility to take that work, therefore strengthening the contract with the taxpayer, or do we want, in future, to continue to be open to the accusation that it does not matter what we do, some individuals will choose not to work because of the benefits available. I know which side of that argument I support and I support the Minister today, and I ask that Members do not reference it back but they make that decision this afternoon.

10.2.13 Senator L.J. Farnham:

I just rise briefly to align myself with the Chief Minister's comments and point out that I think ... it was another, I think the Constable of St. Brelade, who alluded to the fact that he did not like the fact that the Minister had the final say but I take the contrary view. I think it is important, that there has to be an elected representative, a representative of the very people he or she are being called upon to adjudicate on matters like this. Thank you.

10.2.14 Deputy S. Pitman:

Unfortunately I think the Chief Minister has put a twist on this and tried to say that we are trying to stop the Minister doing his ... stopping people getting their benefits when they simply do not want to work. There are people out there, it has been said and we know that. But we have to think, are we going to penalise vulnerable people because of these few people who do abuse the system? I think Deputy Martin is talking about the vulnerable people that will be affected by this, and also I think, I do not see any evidence of consultation with Income Support recipients and I think this needed to be done because we need to find out why people cannot work so we can get an idea of who is classed as vulnerable and who this law does not apply to. I will give a couple of examples; now, people who are having their incapacity benefit reassessed and they are suddenly deemed, after so many years, that they cannot work, sorry, that they can work. This is later found out that this has been a mistake by a medical board doctor. Later on, months down the line, this person, through appeals and much stress, their appeal is overturned and they get their benefit. But many of these cases take months. Are we really going to penalise these sick people for not going to work? Are we going to cut their benefits? That is one issue that has not been looked at, and also with single parents as well. I know a case where a woman with 4 children has been given much pressure from Social Security to work 30 hours a week. So, and this person simply could not do it. Are we going to cut that person's benefit? So I think ... and the children as well, that Deputy Martin talked about, they are going to be affected. So I think we have to listen to her. We are not stopping this law, we just want more detail in it and we have to think about these vulnerable people which Income Support was set up to protect. Thank you.

10.2.15 The Connétable of St. John:

Yes. Having heard arguments on both sides and I was listening, I think it was Deputy Trevor Pitman who mentioned people being off work and he mentioned a person in particular, but that

would have been covered by an illness or disability because it was a nervous issue. He would not have been losing anything because he could have been under an illness certificate. Then I heard, I think it was Deputy Tadier, who mentioned the European Convention on Human Rights. Well, it is mentioned on page 9 within the report. Then I heard the Chief Minister pontificating about having to have this. Well, I am not saying yes, they have to have this, but I am supporting the current Minister because he is on top of his subject. He is one of the few of the 10 or 11 Ministers we have who are on the top of their subject, and given that the Chief Minister was in place prior to our current Minister for Social Security, was it not he who allowed a £6.13 million to be dribbled out of the fund one year and then put it in place for the next year while he was Chief Minister? I have concerns that he should be speaking on this at all because the current Minister for Social Security is really on top of his subject where the previous 2 Ministers for Social Security I do not believe were. **[Laughter]** I am going back because was it not the Minister who was in place, another one, a previous Minister to the Chief Minister, who was in place when the free prescriptions were put in place? All of course at a cost to the Island, in more ways than one.

The Bailiff:

But you are going to come back to giving your views on this proposition?

The Connétable of St. John:

Yes, I am, Sir. **[Laughter]** Yes. I am just letting Members know how on top of his department Senator Le Gresley is, in the 2 years he has been there. The only other Minister I can see who has been in a position 2 years is Deputy Green who is also on top of his subject. Other Ministers are not. This is worth supporting, not the reference back but the proposition. It has been covered. We heard what Deputy Hilton said on behalf of Scrutiny. She does not believe there is a great deal that she can add, or that the Panel could add, and all we are doing is creating delay and having to come back. I would say to Members, accept what we have got, it is in the capable hands of the Minister of that department, and I have - and I do not say that lightly - a lot of faith in this Minister.

The Bailiff:

Senator Routier, if you dare to follow that. **[Laughter]**

10.2.16 Senator P.F. Routier:

Perfect timing, Sir. I am really pleased to follow the Connétable because, as he identified, that I was around when Income Support came in. I brought the legislation originally to this House and I think at that time it was the correct legislation for the economic conditions that we had within this Island. Quite rightly, as he has pointed out, the current Minister is adjusting things for the current circumstances which are in the Island; the current economic circumstances we have and the current unemployment that we have in the Island. With my new hat on with having to look at people ... employer's requests for having licences to employ people within their businesses, non-local people, they come to the Population Office on a very, very regular basis wanting ... asking for licences to employ non-local people because there are local people who are here in this Island who are not prepared to do the jobs that are out there to be done. It is a constant battle that I have, and the rest of the team, the Assistant Minister for Social Security and the Minister for Economic Development, we have people come to us, and the Minister for Housing as well. We all sit together on a fortnightly basis and have requests from employers who want to employ and bring people into the Island, when we know that we have local people in the Island who could be doing jobs. I am talking about, perhaps that there are ... I do not want to say that we are refusing jobs for very highly skilled positions, we will permit those on a very limited basis. But for jobs which are in the economy, perhaps in retail, in those sorts of things which local people can do, it is quite possible and it is right that, with the support of the Social Security Department, with all the schemes which are available in training people, that those people should be employed in the retail sector. So I see

this, what is being proposed here, is of a support in trying to control our population. This has a double-edged sword, this legislation. It is something that I see as being vitally important to help to control our population. There are safeguards within the way this has been brought out but you have to recognise that it is the third time that people have been asked to look at the way that they are seeking ... trying to be employed, and it is only on that final third time, then if the department feel that the Income Support needs to be withdrawn, the Minister has the ability to support the remainder of the family. I have to take exception to what Deputy Trevor Pitman said about there will be people sitting ... children sitting in the dark with no food in their mouth. That will not happen. The Minister would not allow that to happen. He has the ability to make payments, special payments, and I am sure he would. I urge Members, because of what Deputy Hilton has said, that the Scrutiny Panel has looked at this and has had meetings and briefings with the Minister for Social Security and they have decided that there is nothing else they can add to it. I think, as has been identified, this is a political decision. What message do we want to give out to our young generation? It is mainly the younger generation who really need to understand that they have a duty to themselves, to provide for themselves, and they need to be prepared to take on work rather than rely on Income Support. I urge Members to reject this proposition to have a reference back because the Scrutiny Panel have already indicated that there is not a lot they can add to it. Please reject this proposition.

Deputy S. Pitman:

A point of clarification. That case that the Deputy was referring to, that gentleman has had to go to charities. I have taken him around charities and I have taken him to the Parish last week. He had no money for electricity or the phone, he will not switch on his T.V. (television) because he has not got enough electricity. So that is the reality.

10.2.17 Deputy J.H. Young:

I was not going to speak but obviously this political debate is a significant one. I have been very lucky in my life, I have worked every day since 16 and perhaps I do not know how not to work but I recognise that that situation is not a situation that many people, particularly young people, face today.

[15:45]

I think it is right that we have in place systems of providing support and help to people. In a perfect world we would never have a situation where people would abuse those systems. But it is a reality, and we have to face it, that there are people who will - a minority of people - who for whatever reasons will abuse the system. So I think we need to have those safeguards in place in order to be able to deal with that and to prevent the development of any tendency for lifestyle dependencies which in the end will be damaging to the Island and our whole culture of economic success that our future, all of our futures depend upon. So we will not be doing ourselves any favours, I think, if we do not address this subject. Now, but it is equally true if we have those systems, it is desperately important that we have the systems in place to ensure that those decisions that are made are fair and just. I have been impressed by the Minister for Social Security's attention to detail in this proposal. I contrast it with the number of times I have been here as a Member in my short time in this House, having to pass laws where I thought the most draconian things were being passed on one-liners that are ill-thought out and I voted against them. But here we have a very, very detailed set of rules with various steps and processes in it that the Minister has outlined and are all set out in a very clearly, step-by-step law. So my feeling is that that has not been invented in 5 minutes, it has been thought out. There is a key question, I think, for me in this question of whether we go with a reference back. I heard a number of Members speak about the unfettered judgment of Ministers; is it right that the Minister has the complete and unfettered freedom to make final decisions. I need to

know from the Minister whether the decisions that are made under this law are finally subject to the final appeal process of the Social Security Tribunal because I think if that were in place I would be satisfied not to go with a reference back. If, of course, that is not the case, I would be troubled that there is not an external safeguard. So I am going to listen to what the Minister says in reply to the debate on the reference back.

The Bailiff:

Does any other Member wish to speak? Very well, then I invite Deputy Martin to reply.

10.2.18 Deputy J.A. Martin:

I am sorry that the Minister cannot reply and answer Deputy Young's question. The theme from Deputy Young, the Constable of St. John and Deputy Power are all alike: "This Minister has got his brief down and let us let him get on with the job." Well, this Minister is Senator Le Gresley. Will he be there in 12 months time? Do you think this law will stand up to every Minister? The Constable of St. John seems to think he is the only Minister for Social Security who has been any good at the job. I do not agree but we are where we are. Now, I am asking for this to go to Scrutiny and I thank Deputy Hilton, for her interruption about that they have looked at it. **[Laughter]** No, sorry, I meant her input, sorry. Sorry, it has been a long day. I do thank her for her input about they have looked at it but they think it is proportionate, and I really have to question, how is it proportionate when the Minister himself says, this ... he doubts would ever need to be used. So is it a large stick in the background? The Minister also said on reply to referring this to Scrutiny: "Where else would they go?" Well, even in his own report, in the U.K. the actively seeking Jobseeker's Allowance, is taken away from the person not complying. It is not taken away from housing benefit, child support, tax credits or disability payments. But on the third sanction, this would be. Now, let me tell you about this third breach that you think is all timely. Mr. X decides on Monday morning he is not going for an interview. The department rings him on Tuesday and says: "We have rearranged that interview, you are going tomorrow." "No, I am not." That is breach 2, and by Friday he is in breach 3, and the family is having their rent taken away, every bit of money coming in. Now, the Minister says ...

Senator F. du H. Le Gresley:

I need to correct, if I may. That is not correct. The fact is that there has to be at least a week's notice in between each breach before the next stage can be reached. So it could not possibly happen in the timescale that the Deputy is proposing.

Deputy J.A. Martin:

But if you read the scale that ... well, that is even clearer then, but if you read the scale on page 7 which it says: "2 weeks, 4 weeks." So we do know now, a family, and this ... it is the family. I am not trying to advocate that we do not ask everybody to do the work out there. In fact, locals do 2 jobs and do as many jobs as they can. But this sanction will hit the vulnerable, the family, the partner. Now, Deputy Tadier said: "Well, they might chuck the father out." Not if the father has got the tenancy. You cannot touch him. Mum is doing her bit, she is running around trying to bring up 2 or 3 children. She cannot work because they are young. But it is down to the partner. In some of these households these people are very intimidated of the partner anyway, even when you stop the £92 per something per week, the money will be still paid to the partner who is the one in the breach, and the wife and the children they rely on that money. But the actual sanction is where ... have Scrutiny really looked at this and do we need it? So we can go from 3 weeks ... we can go from receiving benefits to nothing, and within ... their claim is closed for 6 weeks. Housing rent alone, they would be in about £1,600 worth of debt if they get back on it after 6 months.

Where do they get their electricity and their food in that 6 weeks? There is discretion but I underline on page 9: "In these situations the Minister will consider creating an exceptional payment under the Ministerial discretion to support only the other members of the household. However, such support will be dependent on all circumstances, et cetera." It does not actually say: "We will not have families in Jersey where Mr. X or even Mrs. X may be the one who should be doing the work, and they are not complying." So, as the Chief Minister says, he wants us - and I do not think it is done anywhere else - to add the ultimate sanction of taking away the rent and the food money, the electricity money and every other component, it is your doctor, and for people who do know, talking about vulnerable families living on a very low Income Support income week to week. Now, they have not got money in the bank to borrow, you are really depriving them of money for a lot of the time. Now, Scrutiny have not looked at this. I am really mystified by the comments: "We are doing this because it is mainly under 25s who flaunt it; 80 per cent are under 25 year-old males." If you are under 25 you do not get the rent component at any rate, you are probably only getting the adult component. So why would you want to introduce something for another set of the community who have vulnerable children and possibly a vulnerable partner? Because this situation will not cure the things that everybody wants to happen. I am sorry this has got into a debate of if we do not support it, it is political. Well, yes, I am political as well. I am politically saying I do not want one child to get into debt with their rent. I do not want them not to have food, money coming in for food, and I do not think we need this sanction. But I have not got the evidence from the Scrutiny Department, I have not ... Social Security have not produced the evidence why we need this. I mean, we had a long speech from the Chief Minister saying that he knows 2 people who walked out of work. Would this stop them walking out of work? No, but it may well stop their families getting any money for the next 6 weeks and their claim being closed. So, I think there is more ... we need to know more. The Constable of St. Brelade and maybe Deputy Pitman and Deputy S. Pitman and Deputy Higgins, they have all worked with similar cases. So has Deputy Southern, and if Deputy Southern was here ... he would have been here but we all know that he cannot be here this afternoon. So, does this need to go back to Scrutiny? I think it does. I think they need to look, they need to produce something to make everybody understand exactly what the sanctions are. Who they will be affecting, and if they are only sitting in the background, why would we need them? Because I do not want to do this to any children in Jersey, or vulnerable partners. **[Approbation]** I do not think really anybody else does. Yes, and finally, I will just say what the Constable of St. Peter, we used to manage this under Welfare, and I was one of those that advocated let us get rid of Welfare and let us go to this Income Support. The discretion that Welfare had was so different. They managed it under Welfare, yes, they did. This is law. Now, if dad was not doing his bit and he might have been handed a broom, the mum would still get the money for the children and the rent would still get paid under the Welfare system. The Constables handled it very well. This does not do it. It does not do it at all and the Minister is shaking his head but to me, it is political and I would rather be on the political side that sends this back for evidence that we actually need to do this to some families in our community, and that is really all I have to say. To me, we need more information. The Scrutiny Panel needs to make some comments if they have spoken to the Minister for Social Security, and then they need to look at how is this human rights compliant when something that some other member of your family does, or it could even be the stepfather or the mum's latest partner but she lives in that house, and you will take the money away from her for her rent and her children. That is exactly what this does mean, be under no illusions. That is exactly what it means, and if you do not think that is worth going back to Scrutiny, I rest my case. Thank you.

The Bailiff:

Very well. The proposition before the Assembly, although one or 2 Members have referred in shorthand to a reference back but it is not a reference back, technically it is a request to the Health,

Social Security and Housing Scrutiny Panel to consider having the proposition referred to that panel. So I invite Members to return to their seats and the Greffier will open the voting.

| POUR: 13 | | CONTRE: 34 | | ABSTAIN: 0 |
|-----------------------------|--|----------------------------|--|-------------------|
| Senator A. Breckon | | Senator P.F. Routier | | |
| Connétable of St. Lawrence | | Senator S.C. Ferguson | | |
| Connétable of St. Brelade | | Senator A.J.H. Maclean | | |
| Deputy R.G. Le Hérisier (S) | | Senator B.I. Le Marquand | | |
| Deputy J.A. Martin (H) | | Senator F.du H. Le Gresley | | |
| Deputy of Grouville | | Senator I.J. Gorst | | |
| Deputy J.A.N. Le Fondré (L) | | Senator L.J. Farnham | | |
| Deputy S. Pitman (H) | | Senator P.M. Bailhache | | |
| Deputy M. Tadier (B) | | Connétable of St. Helier | | |
| Deputy T.M. Pitman (H) | | Connétable of Trinity | | |
| Deputy T.A. Vallois (S) | | Connétable of St. Clement | | |
| Deputy M.R. Higgins (H) | | Connétable of St. Peter | | |
| Deputy G.C.L. Baudains (C) | | Connétable of St. Mary | | |
| | | Connétable of St. John | | |
| | | Connétable of St. Ouen | | |
| | | Connétable of St. Martin | | |
| | | Connétable of St. Saviour | | |
| | | Connétable of Grouville | | |
| | | Deputy R.C. Duhamel (S) | | |
| | | Deputy J.A. Hilton (H) | | |
| | | Deputy of Trinity | | |
| | | Deputy S.S.P.A. Power (B) | | |
| | | Deputy K.C. Lewis (S) | | |
| | | Deputy E.J. Noel (L) | | |
| | | Deputy A.K.F. Green (H) | | |
| | | Deputy J.M. Maçon (S) | | |
| | | Deputy of St. John | | |
| | | Deputy J.P.G. Baker (H) | | |
| | | Deputy J.H. Young (B) | | |
| | | Deputy S.J. Pinel (C) | | |
| | | Deputy of St. Mary | | |

| | | | | |
|--|--|------------------------|--|--|
| | | Deputy of St. Martin | | |
| | | Deputy R.G. Bryans (H) | | |
| | | Deputy R.J. Rondel (H) | | |

10.3 Draft Income Support (Miscellaneous Provisions) (Jersey) Regulations 201-(P.101/2013)

The Bailiff:

Very well, so now we return to the debate on the principles of the regulations. Deputy Martin, you had risen to speak and then you proposed this. Do you want to carry on speaking on the principles now or do you feel you have said it all in the other debate? **[Laughter]**

Deputy J.A. Martin:

No, I do think I have said it all but the Minister has given me no other opportunity. But obviously I will ask for Article 5(d) and (e) to be taken separately at the vote and I will have to vote against it.

The Bailiff:

Can I just clarify on that? I do not think it is possible under Standing Orders to take 5(e) separately because 5(e) is included as part of Regulation 2. We can certainly take Regulation 2 separately which includes, among other things, the new 5(e) but we cannot take 5(e) on its own.

Deputy J.A. Martin:

Thank you.

The Bailiff:

Very well. Does any other Member wish to speak? Deputy Baudains.

10.3.1 Deputy G.C.L. Baudains:

In my view the previous Welfare system that we had was better targeted and more efficient than what we have now. I believe the Constables had a better idea of who was in real need and who was working the system, because what I have found under the present Income Support is that there are people in real need who simply are not getting what they need even to get by on, and others who are work-shy but for whom the department seems to be able to do as much as it possibly can. So what I am looking for in his summing-up is whether the Minister can assure me that this proposition seeks to redress that balance.

10.3.2 The Deputy of Grouville:

I would just like to ask the Minister in his summing up if he could highlight exactly what the adult income support rate is and the current minimum wage and if, in his opinion, there is enough difference to incentivise those out of work to work.

10.3.3 Deputy M. Tadier:

I am still disappointed. I think perhaps the last proposition should really have been a reference back because it seems to me there is information which would have been preferable for all Members to have at their fingertips so that we could all vote for this knowing that all the guidelines and everything is place. We do not have the guidelines. Irrespective of whether this goes through today, I would like to have the guidelines. I suspect I will need them when I am making representations to the department. It would be useful to see the H.R. (Human Rights) audit and I was disappointed with some of the comments which did not address the reference to Scrutiny which

all seemed to centre on *ad hominem* arguments, that is arguments which related to the person rather than what was put in front of us. It was a bit like being at a Parish Assembly if I am honest where, rather than looking at the detail and the facts ... I am not necessarily tarring all the Parishes with the same brush, but it certainly has been my experience on some occasions that someone will stand up and say: "Oh, but he is a good guy, eh? He knows what to do for the Island so we will just let him go on and do whatever he likes." No doubt that kind of argument was used in 1933 in Germany, although with a slightly different accent and, of course, I cannot compare to the current Minister because I agree that the Minister is a decent fellow. We met him for coffee the other day and he offered to pay for me so that certainly is beyond question and there was no sanction about what would happen if I did not pay for the coffee so that was at least worthy on the part of the Minister.

[16:00]

Deputy R.G. Le Hérissier:

Can I interrupt? While I may have been as critical of the Constables, I think comparing the Constables to someone who we know of in 1933 is slightly extreme, if I may say so.

Deputy M. Tadier:

I was not comparing the Constables to that. What I was saying is that there is a risk when you use *ad hominem* arguments and you place your faith in an individual and do not listen to the arguments but you say that individual is necessarily good, whatever they do, and I could have perhaps used an example of Russia instead of Germany so I do apologise to the Deputy if he took any offence to that comment. Now, we have all talked about the fact that, of course, nobody wants scroungers to exist. The point is that we are told by Social Security and Income Support that you are always better off working than not working. That is a mantra that they have told us and that seems to be quite right but clearly, at the moment, if people are giving up work, we are told, even in a very minority of cases, then clearly they do not feel as if they are better off working than not working. But there is an alternative, something which may be quite radical to many people here which I believe Switzerland are looking at and it brings into question the whole concept of who are the scroungers in our society because there is a concept where you say everybody should be entitled to benefits. It is called a stipend in some countries. I think the concept is known in Germany and Scandinavia. Switzerland is looking at it. What you do is you pay everybody in society who is eligible a stipend. That means that they have sufficient money to live and that there is no incentive not to work or rather there is an incentive to work because if you want more money, if you want the luxuries in life, you go out and get a job. You maybe go out and get 2 jobs. If you want to put your children to private school rather than state school, you go and get an extra job and you give them a little bit extra hand-up in society. That is how it works. It also has to be said that some of the best art and music has been composed on benefits. I think UB40 are coming to Jersey. We know what UB40 stands for and I certainly know of individuals who have improved themselves no end because they have the time to read, to study music which they would not be able to do if they were at McDonalds or sweeping the roads in St. Peter. So there are 2 sides to every coin and it has to be said that some of the real benefit scroungers are those who use international dodges to avoid paying taxes where they should be paid and if everybody paid the taxes that hard workers in Jersey and elsewhere pay, at a 20 per cent rate, for example, which is still relatively low internationally, if everybody in our society paid 20 per cent tax, we could all be on benefits and that is something which is not often brought up. Internationally, tax avoidance costs governments much more than government scroungers and it has also been shown that in the U.K. that the amount of benefits that are not paid out to those who should be eligible for benefits is much greater than any benefit cheats that are abusing the system. It does not mean that we do not have to address it but in terms of priorities, this is clearly something which is popular and also populist with the public. So simply

getting back to the point, the Minister has clearly the support, I think, from the Assembly for this. We are saying the devil is in the detail and the detail has not been provided and I think this is a low point for government. If we are honest about it, we have one scrutiny representative in here who I suspect does not necessarily get on very well with the Minister for Children. We have a chairman of the scrutiny panel who is clearly co-opted and inefficient and is very friendly with the Ministers and will not provide any scrutiny for this because it is something that fits with her personal politics. We have been told that this is a political decision from scrutiny. It is clearly not. Scrutiny should be there to make objective decisions to look at what is being proposed ...

Senator I.J. Gorst:

I wonder, could the Deputy give way? The chairman of the said panel is not here. He is unwell so I think it is unfair to try and characterise the chairman in such terms ...

The Bailiff:

I agree.

Senator I.J. Gorst:

... and a member of the panel who made the comments on behalf of the panel. I just feel that the Deputy perhaps should withdraw that because the chairman has not been here for the duration of the debate and has not commented.

The Bailiff:

In addition, I think, the suggestion was that because she was friendly with the Minister, therefore she would not do a proper job. I think that imputes improper motives so ...

Deputy M. Tadier:

I take that back in that case. I am quite happy to abide by Standing Orders and maybe rephrase the term which has been used by a Member who is not here at the moment, Deputy Southern, who calls it "scrutiny light" and I think that is a valid political point to make, that scrutiny should be objective. It sounded like the scrutiny panel did not even know that this H.R. audit had taken place so it does make you wonder what kind of information was being passed over. I think clearly sensing the mood of the Assembly, this is the correct time to stop but I think there are wider issues which need to be looked at in the whole benefits scheme in the way that we look at work and free time and what we expect from individuals. But I do have to say that ... and I think the Minister is aware, where we are letting people down is what is the point in putting people back into jobs if there are no prospects for up-skilling in those jobs? If people are stuck in a dead-end job with no route out and we do have individuals who I know who are very capable academically who are not being given the encouragement and actual financial support they need to study, to get into much better jobs with prospects which may involve teaching, et cetera, who are being forced to look for menial work when clearly they should be individuals who are supported through the education system and put into much more fulfilling work which would get them out of the rut in the long term. So I think the question of how we get individuals in the medium to long-term out of the ruts that they may find themselves in is an important issue that we all need to look at.

10.3.4 Deputy T.A. Vallois:

I was not intending to speak. I did vote for the reference back but in principle I do support these regulations. I find it important that I stand to explain the reason for my requesting the reference back because at the briefing last week, I did ask the Minister about a cost benefit analysis with regards to the regulations of income support because this was being applied due to a number of roughly 229 people that have been evidenced as not abiding by the rules that were currently in place. I have not seen that cost benefit analysis from the department and neither have I been given

any surety that in future, for future States Members, when they are making policy decisions or legislative changes, that they would be given the appropriate information or management information to make the right decisions and in order to do that, that they undertake a sensitivity analysis that would come from this type of work to identify whether there are any themes in the background and I am not just talking about child policy themes, I am talking about educational themes or previous work themes or family themes coming from that data which would help inform future policymaking. I would also like to take up issue with Deputy Tadier. As President of the Chairmen's Committee, I do take quite an offence to some of the comments he has made. I do not put myself as part of a member of the establishment. If he wants to call me that, then that is absolutely fine, go ahead, but I am not. I am an independent Member. I have been elected as an independent Member and I ...

Deputy M. Tadier:

Would the Chairman ...

Deputy T.A. Vallois:

No, I will not, I will not.

Deputy M. Tadier:

I would seek to clarify the ...

Deputy T.A. Vallois:

No, I will not. I would like to advise Deputy Tadier that this States Assembly elected Deputy Moore as Chair of H.S.S.H. (Health, Social Security and Housing) Panel. **[Approbation]** It was this Assembly that has agreed the Code of Practice for scrutiny. It is this Assembly that can refer back any pieces of legislation or ask scrutiny at any point in time, even from 27th August when this was lodged, to look at this piece of work. What I was uncomfortable with was that the Scrutiny Panel did not provide comments to this which I wish they had and I will talk to the Scrutiny Chairman about this at the next Chairmen's Committee and we will discuss this to help other Members in future. But I think it is unfair that we severely criticise people because we do not share the same political views. We are appointed by this States Assembly to carry out a scrutiny panel job and that particular panel has a great deal of work to deal with with regards to Housing, Social Security, Health and Social Services - with which there is a great deal going on at the moment - so I would just ask the Deputy to take a little bit of respect for the people that take up these roles. **[Approbation]**

10.3.5 Deputy S.J. Pinel of St. Clement:

The Minister's presentation of the proposition was so long ago I would just like to reiterate a few salient bullet points. The Social Security Department decided to design new sanctions because it became clear that there is a minority of people on income support who are not motivated to seek work by the existing powers available to us. These few have no good reason not to look for work, a minority of people who choose to ignore the help given to them through advice, training and work placements. We are not talking about people who should not be expected to work or people who need extra support in finding work. The Social Security Department will give them that extra support for as long as required. The new sanctions will only affect those people who are required under law to look for work. People who are already exempt because of their health, their age or because they care for children or disabled people will not be affected by the new rules. Neither will those people who are doing therapeutic work or those having trouble finding work through no fault of their own. People who are made redundant will not be penalised. We do not intend the changes to save money as we hope that most people will behave responsibly and avoid having their benefits cut. People who act reasonably will have nothing to fear from these changes. Our aim is that any

money we do save will be because people obtain work and no longer require benefits to support themselves. The initial sanctions will not affect people's rent or money for other members of their family. Warnings will be clear and issued on multiple occasions before all benefit is removed. Again, a reminder. The Minister will also retain the power to make special payments to family members affected by a failed jobseeker, especially where children are concerned. Difficult cases will be given extra attention from senior officers. Social Security is working closely with J.A.C.S. in producing guidelines for the decision-makers. These are very close to completion with a training day for officers of the department this week. We are talking about a minority but it is not right if people choose not to work while others working and paying tax are subsidising them. This must not be confused with those that need and do get support to find work. I hope Members will support these changes to keep Jersey's benefit system fair, firm and fit for purpose.

The Bailiff:

Does any other Member wish to speak? Deputy Pitman?

10.3.6 Deputy T.M. Pitman:

Only briefly after poor Deputy Tadier was berated for his honest opinions. We just heard about minorities. Well, I have to say if only the Social Security Department and, indeed, the Council of Ministers generally did not run such appalling propaganda programmes, people might understand that it is just the minority. Indeed, while I support a lot of what the Minister in this instance does, if only he could somehow project that into the wider group think of the Council of Ministers so that the real scroungers in society, as I think Deputy Tadier referred to, the vast majority of high net value individuals in the Island who we are told pay at least £125,000 but as the figures I forced out reveal, the vast majority pay nothing like; they are the scroungers. Let us hope the Minister can get his colleagues moving on doing something about those and then there would be a lot more money to go around for everyone, those people who really need it. Again, the Deputy of St. Clement seems to be someone who does not ever work with people affected by these sorts of draconian rules because I see it nearly every week, people who are suffering and falling through the cracks because the discretion that the Minister has is rarely ever used and the fact of the matter is, that depending on what day of the week you go down to Social Security and what time of day, you will get a completely different answer from every person you speak to. So is it any wonder that so many people end up disgruntled, in despair.

[16:15]

Most people in this Island are not work-shy crooks and when we see these huge posters, I think it is pretty pathetic. It really is so evident of a Right-wing government which is, of course, what we have got. Let us make everyone contribute fairly, including the very rich, the real tax dodgers. Let us go after that small minority of people. Let us go after them hard but let us not tar everyone with the same brush so that people are almost embarrassed and ashamed and in some cases end up sitting in a room alone with no heat, barely enough food, because of the way they are treated by some people within the department and the way they are portrayed as crooks. I am left unable to support because of the way this has been written. I have got to vote against the whole of Article 5, it seems. That seems to me very unsatisfactory and if for no other reason, it probably should have been pushed back to scrutiny. I am like Deputy Tadier. Where is ... I am not attacking scrutiny although I think scrutiny is pretty light in many ways now. Why [Aside]... it is true. If only the Deputy was so strident when she is challenging the Council of Ministers. [Aside] Well, you can only call it as you see it. [Aside] Well, my opinion, Deputy, is just as valid as yours. Thank you, ma'am.

The Bailiff:

Can we stop the little conversation between you and the Deputy? [Laughter] [Aside]

Deputy T.M. Pitman:

I am not the one with the short, fat, hairy legs. So I just think again, it is this them and us which is a shame because I think what Deputy Martin started out trying to do when she said about pushing this back, it is not about being awkward. It is not about finding fault with everything the Minister has done and it is not about ... well, as I say, it comes down to them and us. The Deputy has highlighted very genuine concerns. Sorry, Senator Routier, but there are people out there, kids, sitting in the dark at home. I see it. Deputy Southern will see it. Deputy Martin will see it and a few others but it is few others because of the nature of the area where we work. It is happening and sitting in your ivory tower, Council of Ministers, is not going to change that fact. How can a child suffer because of the inappropriate behaviour of an adult? That is entirely wrong and if any human rights audit has said that that is okay, then I would have to say that it is probably not worth the paper it has been written on. So I am not attacking this Minister. He does do some good work but in this case, he has got something wrong. So all I can do is speak against it and urge everyone at least to vote against Article 5.

10.3.7 Deputy G.P. Southern:

I am surprised that this debate is still going on on the one hand; on the other hand, perhaps not. I understand the attempt to refer this to Scrutiny was defeated so I am glad to be here in time to register my complete abhorrence at the move that is proposed in Article 5. It seems to me that this is the worst possible case, visiting the sins of the father - and it often is the father, the sins of the father - on the sons, on the children, and that should not be happening. To be quite frank, I cannot believe that extending sanctions on the benefits scheme into the entire family is human rights compliant, although there is a statement in this document that says it is and I wonder to what extent that has been researched or examined in depth because I cannot believe that we want to do that. What I want to do is just try and put Members in the shoes of someone applying for a benefit and applying for income support under these circumstances because while the department does its best, it deals with thousands of cases every week, month, day in and day out and within those cases, it does occasionally make an error, a serious error, which often denies people access to the benefit. That benefit is not something that makes life a little bit better. It is something that is crucial to the fact that they may not be able to get through the weekend, they have got 2 kids and there is no food in the pantry. That is the sort of need that we are talking about and that still exists in our society today. The department does make mistakes. I personally have been in the department on a number of occasions, probably in the order of a dozen times, where I have seen somebody that I believe to be completely honest come in and say: "I gave you the package of documents, the application forms, last week. I put it on this desk here," and the department turns around and says: "We have no record of that." Entire application forms with weeks of scrabbling around trying to find the bank statements, trying to find a statement from the employer, et cetera, placed in their hands and they have lost it. I was in there - and this is a classic - a woman who could not understand why her income support had gone down by £60 for no apparent reason and after several weeks stretching into a couple of months of trying to make ends meet, she finally got in touch with me and said: "Please, can you help out." I took her into the department, arranged an interview with an officer and, lo and behold, as part of the conversation when we were going through the application for income support and: "How are both of your children?" The woman looked at me: "Both? Do you not mean 3?" and they have simply lost a child. That is worth £60 a week and that had meant that she was struggling around for a number of weeks. That is the sort of mistake that is routinely made. When that happens, what it means is that families are thrown into dire straits so let us imagine then one of these shirkers, one of these malingerers, leaves a job, leaves a job but this it is a zero hours job. Why? Because he simply cannot make ends meet. The first week he got £40, the second week he got £100, the third week he got £20, the fourth week he got £200. The fifth week, before he went back because that is what he was advised, back into the department, he got £20. He

has been living off a variable sum without proper support for 5 weeks and he goes in and says: “I am going to quit this job because I cannot make ends meet, I cannot make this work.” Is that falsely leaving a job without good reason or is it not? What about the person, the English speaker, who goes into the kitchen of a restaurant where the *lingua franca*, the only language that is being spoken week in week out, day in and day out, night after night, is Portuguese or some other foreign language and again comes back to the department and says: “I cannot take this, I cannot handle it, I cannot hack it, I will have to leave.” Will that be deemed insufficient reason without good cause? If it is, what do they face? So I have had my income stopped and somewhere down the line I think this is unfair so I ask for a second determination. That routinely takes between 2 and 3 weeks. Then 3 weeks later, I get a decision but it is only a tick box thing. Did the officer go through the right procedures? Yes, he did. That stands. So I go to the Appeal Tribunal at Social Security. How long is that going to take? Remember, my money has been stopped. I have been sanctioned. How long does that take? Well, I have just got the last 2½ years’ worth of Social Security Tribunals and guess what? It takes at least 3 months from starting an appeal to receiving a judgment and in some cases, it took up to 8 months so that is 8 months without benefit. It does not matter what the result is. A lot of people are in severe hardship by then and should it be that the wrong decision was made, as ruled in favour of the client, what good is that? Justice delayed is justice denied. The fact is with these sorts of draconian measures in place that affect the family ... and let us look at Article 5, look at what it says: “All benefit from the department to the family gets stopped.” If the rogue, the malingerer, is told to get on his bike and get out of the household, that is fine, income support will be reinstated. But if he inveigles his way back in, as many do, into the bosom of his family, as soon as he comes back to the household, that support gets stopped again. What way is that to behave? I cannot look into my heart and say: “I think this is the sort of thing that the Government of Jersey should be doing with its benefit rules.” I cannot, in good faith, vote for this Article 5. I will not vote for the whole lot because it is completely and utterly flawed. I urge Members also to vote against it. This would be a mistake.

10.3.8 The Connétable of St. Lawrence:

I would like the Minister to address the housing component under the miscellaneous changes, Part 3. I am concerned that we are told that members of a household who are in custody, in detention or provided with board and lodging at public expense, and the example given would be that they would be in hospital, will lose their housing component under these new regulations. But what concerns me is that we are told that where someone is in hospital for longer than 4 weeks, there has to be a genuine case for them to be in hospital and I wonder how that genuine case will be decided. Will it be on the severity of their illness? I have no idea. It seems to me ... I cannot believe that we are talking about stopping the housing component after 4 weeks in hospital but it has to be genuine. Who will make the decision? I refer Members to page 9, section 6, miscellaneous changes, the third paragraph: “The department is aware that there will be genuine cases in which the accommodation component should be maintained for more than 4 weeks when adult members of the household are either in prison, in hospital or out of the Island.” I really am concerned that someone in hospital for more than 4 weeks can lose their rental component or their housing component under these proposed changes and I hope the Minister will be able to provide an explanation that satisfies me in this connection.

The Bailiff:

Does any other Member wish to speak on the principles? Very well, I invite the Minister to reply.

10.3.9 Senator F. du H. Le Gresley:

Of course, a lot of people initially spoke on the proposition from Deputy Martin and, of course, because that was not my proposition, I did not write down what everybody was saying but there

was a general theme coming through and I thank the 34 Members who supported the fact that they wished to see these regulations debated. A lot of discussion has taken place about human rights and it is correct that we have sought human rights advice - comprehensive advice - from the Law Officers' Department. In order for me to be able to release that advice to Members, which I would fully hope to do, I have to get the consent of the Law Officers because ... Deputy Southern is shaking his head and the reason he is shaking his head is because he thinks he is right but he is wrong. On this occasion, these are regulations and regulations do not require full human rights audit. However, I did request them on this occasion because I wanted to be able to say to Members that we have done a human rights audit but there is no obligation for me to publish those but I will do so as long as I get the consent from the Law Officers.

[16:30]

In respect of human rights, we have to be aware that if and when I was to use Ministerial discretion in the situation where I wished to support other members of the household, I would not, for example, be able to do anything that would result in somebody being evicted, somebody starving, and the sort of doom and gloom comments that would have people sitting in the dark because they could not pay their electricity is absolutely ridiculous. I would absolutely use Ministerial discretion to protect families who through no fault of their own but through the fault of perhaps the main wage earner, or should be the main wage earner, are failing to comply with job-seeking activities having had so many warning letters that he or she should have known better. So absolutely Ministerial discretion will be used completely in compliance with human rights to protect those other members of the family. Vulnerable children would not in any shape or form be affected. Sick people would not be affected and really it is ridiculous to suggest that we would neglect these people. Deputy Baudains made reference to the fact that he thought Parish welfare was better. There is absolutely no doubt that the number of unemployed people in the Island at the moment and the number of households on income support could not have been continued to have been helped through the Parish welfare system. It just would have overloaded Parish rates. The whole administration would probably have collapsed by now and thank goodness that previous States Members and the much maligned previous Ministers and Presidents of the Social Security Committee had the foresight to press ahead with delivering this universal income support benefit which was available just at the time that we hit a recession. If it had not been available, we would have a lot of people who would have found real hardship over the last few years. So I applaud those foresighted people in the past. The Deputy of Grouville asked me what was the difference between receiving the personal component of income support which is £92.12 and being on a minimum wage and what were the incentives to go out to work? Well, using the minimum wage of £6.53 an hour, that comes to roughly £261 a week on a gross wage of 40 hours. We do give a 20 per cent disregard for earnings. That would be equivalent to £51.84 but in any event, just taking the very basic gross wage of £261, the income support recipient would be £169 a week better off in work than receiving the personal component of income support. Obviously if they have rent to pay, then that comes into the proportion but what we are talking about here are predominantly young people under the age of 25 who do not qualify for the housing component. Therefore the only money they receive from income support is the personal component. Deputy Tadier wanted me to circulate the guidelines that have been developed for determining officers. We will be publishing more details about the income support guidelines. I have answered questions before on this matter. We did have an item on the website which was the 2009 guide. We withdrew it because it was out of date. We have held back on releasing our new guide pending the outcome of this debate so that we could build-in the information about sanctions into the new guidelines and as soon as those are finalised, they will go up on the website and any States Member will be able to access them. Detailed guidelines are not normally circulated to the public. They are used by determining officers and they can extend into hundreds of pages of information. Deputy Tadier also chastised

me for being perhaps quite firm that income support is about finding people work and not finding people the opportunity to study. I do stress that we have approved only in the last fortnight a number of cases of people who wanted to do the Nursing Degree course which is being offered locally. We have agreed to provide income support for young people to do that course. We regard that as a critical skill and we will continue to support critical skills identified by the Skills Board for the Island. Also, we have been working with colleagues at Highlands College with a view to making some of the access courses part-time and also e-learning opportunities for people to use Highlands College. Deputy Vallois asked me about a cost benefit analysis. I am not sure I have ever really understood what that means but anyway quite simply, I did say in my speech that we do not see any savings for these proposals. It is not about saving money. It is about making the system fairer and if we do achieve any savings, it will be as a result, as my Assistant Minister said in her speech, as a result of people finding jobs and surely that is the best thing for everybody and for the economy in general. My Assistant Minister was, of course, supportive, but she did make a very good statement at the end of her speech when she said we need to keep the benefit system fair, firm and fit for purpose and I totally agree with those sentiments. That is where we need to be. Deputy Pitman referred to these new rules as draconian. I think they are far from that but however that is his interpretation of the proposals. He said that the Minister's discretion is rarely used at the current time. I have to say that that should always be the last resort. It should not be the first option. Determining officers can use special payments. They have many other tools at their disposal to assist people and it is only when a claim or a dispute perhaps on a claim falls completely outside of the published guidelines that the Ministerial discretion should be used. So it should be quite rightly used sparingly and not dished out at random without a lot of thought. He also suggested that a child could suffer as a result of inappropriate behaviour of an adult. Well, I have to say to the public who are listening to this that it is not just the Social Security Department who have responsibilities in delivering this benefit. It is individuals. If you are looking after children, you have a responsibility. Do not pass that responsibility to government. They are your children and you have a responsibility. **[Approbation]** Finally, Deputy Southern managed to make it back to the Chamber and, of course, we are pleased to see him back on this particular subject which is one of his expert fields. I am sorry that he feels that this is, what was the word he used, completely and utterly flawed. I do not believe it is. I believe we have spent a lot of time looking at this carefully. We have had human rights compliance advice. We have looked at the people we will be primarily targeting which is young people under the age of 25; 80 per cent of those who currently receive some sort of warning or sanction are in that group. He made unfair criticisms about the department which I will gloss over because there is no point in trying to persuade him otherwise and basically we heard what we would expect to hear from Deputy Southern. The income support system is a disaster and he would like to rewrite the whole rules but we are not going there today. The Constable of St. Lawrence finally quite rightly picked up about Part 3 to do with losing the housing component. This has arisen because we have had a couple of cases and I can quote one where somebody had left the Island and was still renting a property, had put in a tenant and we were still paying the housing component because we had not been notified they had left the Island. The situation is we have to have a rule that closes a claim after 4 weeks if the house is left empty. This is the tightening up of the rule. We can have a procedure whereby we do this but in law, we need to have it in law that we can close a claim in that situation. Now, if somebody goes into hospital, again we have had a case where somebody was in hospital for a long time, then moved into a residential care bed and again the rental of the unit was still being paid when it could have been closed some time ago and the property recycled into the economy. So we have to have these procedures but, of course, as far as somebody in hospital, we would be made aware, probably by a relative. It is not a question of how sick they are or what illness they have. If they are there more than 4 weeks, we would, of course, continue to secure their accommodation for them until they are ready to leave hospital. Obviously we would do regular checks to see how their health is

progressing and in the case, for example, of the one I just described where somebody was placed in residential care, we would have hoped to have closed the claim before that had happened. So with that, I hope I have answered the questions raised. I feel that my department does get maligned perhaps unfairly in this Assembly. We try to do the best we can. We serve over 6,600 households on income support plus a further 550 people in residential care. It is a complicated benefit that we have here but we do our best and these additional sanctions will be of great assistance to us in trying to deal with a very small minority of people who fail to comply with job-seeking and I maintain the principles and ask for the appel.

The Bailiff:

Very well. The appel is called for in relation to the principles.

Deputy J.H. Young:

I wonder if I could ask the Minister just to clarify. I did ask about whether or not the Article 5 Ministerial decisions would be subject to an appeal to the tribunal. I did not hear his answer to that.

The Bailiff:

That is because I do not think he gave one. Minister, I do remember that question from Deputy Young.

Senator F. du H. Le Gresley:

Yes, I did say that some people spoke in the previous debate and therefore I did not make notes at the time so I apologise. There is no further appeal from a Ministerial decision. That is the final decision, usually cases will have already been subject, where appropriate, to a Social Security Tribunal appeal. From Ministerial decision there is no further appeal.

Deputy T.M. Pitman:

Can we have Article 5 taken separately?

The Bailiff:

Yes. I dealt with that earlier. It is Regulation 2 and we certainly can take that separately.

Deputy M.R. Higgins:

Can I just ask you is it possible for the Solicitor General to come back and answer the question whether no appeal from the Minister, if there is a final decision from the Minister would be human rights compliant? Could we ask him to come back before the end of the debate, please?

The Bailiff:

Well, the Minister has said there is ...

Senator F. du H. Le Gresley:

I have just been pointed out by one of my colleagues, there is judicial review beyond a Ministerial decision.

The Bailiff:

Very well. So the appel is called for, then, in relation to the principles. I invite Members to return to their seats and the Greffier will open the voting.

| POUR: 43 | | CONTRE: 4 | | ABSTAIN: 1 |
|----------------------|--|--------------------------|--|------------------------|
| Senator P.F. Routier | | Deputy G.P. Southern (H) | | Deputy J.A. Martin (H) |
| Senator A. Breckon | | Deputy S. Pitman (H) | | |

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|------------------------------|--|------------------------|--|--|
| Senator S.C. Ferguson | | Deputy M. Tadier (B) | | |
| Senator A.J.H. Maclean | | Deputy T.M. Pitman (H) | | |
| Senator B.I. Le Marquand | | | | |
| Senator F. du H. Le Gresley | | | | |
| Senator I.J. Gorst | | | | |
| Senator L.J. Farnham | | | | |
| Senator P.M. Bailhache | | | | |
| Connétable of St. Helier | | | | |
| Connétable of Trinity | | | | |
| Connétable of St. Clement | | | | |
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| Connétable of St. Ouen | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of St. Martin | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of Grouville | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy R.G. Le Hérissier (S) | | | | |
| Deputy of Grouville | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy J.A.N. Le Fondré (L) | | | | |
| Deputy of Trinity | | | | |
| Deputy S.S.P.A. Power (B) | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy M.R. Higgins (H) | | | | |
| Deputy A.K.F. Green (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |
| Deputy G.C.L. Baudains (C) | | | | |
| Deputy of St. John | | | | |
| Deputy J.P.G. Baker (H) | | | | |
| Deputy J.H. Young (B) | | | | |

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|------------------------|--|--|--|--|
| Deputy S.J. Pinel (C) | | | | |
| Deputy of St. Mary | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Bryans (H) | | | | |
| Deputy R.J. Rondel (H) | | | | |

The Bailiff:

Very well. Now, I think I know the answer to this question but, Deputy Hilton, do you wish this matter referred to your panel? **[Laughter]**

Deputy J.A. Hilton:

No, thank you.

The Bailiff:

Very well. Now, Minister, how do you wish to propose the individual regulations? Members have clearly indicated they want to have a separate vote on Regulation 2 so do you want to propose Regulation 1 to start with?

10.4 Draft Income Support (Miscellaneous Provisions) (Jersey) Regulations 201-(P.101/2013) - Regulation 1

Senator F. du H. Le Gresley:

Yes, perhaps I could do 1 and 2 together and then separately number 3.

The Bailiff:

All right, on a separate vote, yes. They have to be voted on separately. Very well, so would you wish to speak to Regulations 1 and 2?

10.4.1 Senator F. du H. Le Gresley:

Yes. Regulation 1 is simply the interpretation of which actual laws or regulations we are talking about which is the Income Support (Jersey) Regulations 2007 and the Income Support (Special Payments) Regulations 2007. Regulation 2, 2(1) and 2(2), in this regulation, terms used in the new regulations are defined, in particular, the concept of a person required to seek work. The meaning of this important concept is defined as: “An income support claimant who is required to seek full-time or part-time work under the Income Support Law.” The regulation refers to the part of the law that defines which people are exempt from work and Regulation 2(3), the existing regulations 4 and 5 are replaced by new regulations. I think I should stop at that stage and just take a vote on Regulation 1 and 2 because Regulation 3 is the one that is causing people concern.

[16:45]

The Bailiff:

No, I think ...

Senator F. du H. Le Gresley:

Oh, it is all part of 2.

The Bailiff:

... I think it is Regulation 2.

Senator F. du H. Le Gresley:

In that case, I apologise and you were absolutely correct. We should take a vote on 1 so I propose Regulation 1 at this stage. I apologise.

The Bailiff:

Right. Is Regulation 1 seconded? **[Seconded]** Does any Member wish to speak on Regulation 1? The appel, you say, is called for on Regulation 1. The appel is called for then on Regulation 1. I invite Members to return to their seats and the Greffier will open the voting.

| POUR: 46 | | CONTRE: 2 | | ABSTAIN: 0 |
|-----------------------------|--|--------------------------|--|-------------------|
| Senator P.F. Routier | | Deputy G.P. Southern (H) | | |
| Senator A. Breckon | | Deputy S. Pitman (H) | | |
| Senator S.C. Ferguson | | | | |
| Senator A.J.H. Maclean | | | | |
| Senator B.I. Le Marquand | | | | |
| Senator F. du H. Le Gresley | | | | |
| Senator I.J. Gorst | | | | |
| Senator L.J. Farnham | | | | |
| Senator P.M. Bailhache | | | | |
| Connétable of St. Helier | | | | |
| Connétable of Trinity | | | | |
| Connétable of St. Clement | | | | |
| Connétable of St. Peter | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Mary | | | | |
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| Connétable of St. Ouen | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of St. Martin | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of Grouville | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy of Grouville | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy J.A.N. Le Fondré (L) | | | | |

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| Deputy of Trinity | | | | |
| Deputy S.S.P.A. Power (B) | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy M. Tadier (B) | | | | |
| Deputy T.M. Pitman (H) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy M.R. Higgins (H) | | | | |
| Deputy A.K.F. Green (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |
| Deputy G.C.L. Baudains (C) | | | | |
| Deputy of St. John | | | | |
| Deputy J.P.G. Baker (H) | | | | |
| Deputy J.H. Young (B) | | | | |
| Deputy S.J. Pinel (C) | | | | |
| Deputy of St. Mary | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Bryans (H) | | | | |
| Deputy R.J. Rondel (H) | | | | |

The Bailiff:

Now, would not, Minister, the best thing now be to take Regulations 2 and 3, in other words, Part 2, yes?

10.5 Draft Income Support (Miscellaneous Provisions) (Jersey) Regulations 201-(P.101/2013) - Regulations 2 and 3.

10.5.1 Senator F. du H. Le Gresley:

Yes, I do apologise for getting myself confused. It was the excitement of the vote before, I think, that did it. So if I could return to Regulation 2(3). The existing Regulations 4 and 5 are being replaced by new Regulations 4, 5, 5(a), (b), (c), (d), (e) and (f). The existing Regulations 4 and 5 explain how a jobseeker was required to be actively seeking work and what happens for income support purposes if the jobseeker fails to be actively seeking work. The new regulations are as follows. New Regulation 4: “This regulation includes all of the existing tests of actively seeking work and also includes extra conditions. The person was already required to be taking all reasonable steps to find suitable work, to not unreasonably turn down the offer of work, and to attend every interview arranged by the Minister. The person now is also required to be in Jersey or if temporarily absent, to have a reasonable excuse of being absent. The person now is also required to be willing and able to take up paid work that is suitable work. Suitable work is already defined in the 2007 Regulations as: ‘work that is appropriate to the person’s skills, qualifications and abilities or work that, though it does not make full use of the person’s skills, qualifications and

abilities, is work that the person might reasonably be expected to undertake, having regard to the length of time that he or she has been looking for work.’ When participating in training or work experience, the new Regulation makes it clear that the person is expected to engage in it to the best of his or her ability.” New Regulation 5: “This regulation introduces sanctions for an individual who leaves paid work without a good reason and wishes to claim income support, either as an existing claimant or by submitting a new claim. A 13-week sanction period is created. During this time, the individual cannot receive the adult component of income support.” Regulation 5(a): “This Regulation introduces a warning that will stay in force for at least a year. The warning is served on the jobseeker. If the jobseeker fails to satisfy all the actively seeking work requirements set out in Regulation 4, the warning is extended if the jobseeker fails again to satisfy the actively seeking work requirements during that year.” Regulation 5(b): “This Regulation sets up sanctions which increase in severity each time there is a further breach of job-seeking requirements. If a warning is already in force, the next time the jobseeker fails to actively seek work, the Regulation creates the first breach and the jobseeker loses the adult component of income support for 2 weeks. If there is another breach, the adult component is removed for 4 weeks. Further breaches after this carries a penalty of 6 weeks and the full income support benefit is removed during this time.” This next point came up during the debate on the principles: “There must be a gap of at least 7 days between each breach so that a person has adequate time to visit the department and to address their behaviour. The jobseeker is sent a letter for each warning and each breach and can ask for any decision to be reviewed. As with income support decisions, there is also an appeal to an independent tribunal.” Regulation 5(c): “This Regulation explains how warnings and sanction periods can be extended by further failures to be actively seeking work. If the jobseeker has left paid work and then fails to seek work during the 13-week sanction period, the 13 weeks is extended. If the jobseeker is in prison, any remaining warning period or sanction is suspended during the time in prison and then carries on when that person leaves prison. If the jobseeker reaches the age of 65 or remains in prison for more than one year, the warning and any outstanding sanction is cancelled.” Regulations 5(d) and (e): “These 2 regulations identify the financial penalty for each type of breach. For the first breach of 2 weeks and the second breach of 4 weeks, the jobseeker loses their basic adult component and for the third breach,” as has been said many a time, “all income support payments are removed for 6 weeks. During the 6 weeks, the household cannot make a claim for a special payment. If the jobseeker joins a new household during the 6 weeks, the jobseeker will not receive a basic component but the new household does not lose the remainder of their claim.” Regulation 5(f): “This Regulation explains that a breach that is already in force is not cancelled if a further breach is identified. Each breach continues to run.” And finally, Regulation 3: “This Regulation removes Regulation 5 of the Special Payments Regulation which was used to provide payments during sanction periods under the existing regulations.” I propose Regulations 2 and 3.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on either of those regulations? Very well. The appel is called for, then, in relation to Regulation 2 which Members have asked to be taken separately. So that is the matter now before the Assembly and the Greffier will open the voting.

| POUR: 38 | | CONTRE: 10 | | ABSTAIN: 0 |
|------------------------|--|-------------------------------|--|-------------------|
| Senator P.F. Routier | | Senator A. Breckon | | |
| Senator S.C. Ferguson | | Connétable of St. Brelade | | |
| Senator A.J.H. Maclean | | Deputy R.G. Le Hérisssier (S) | | |

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|-----------------------------|--|--------------------------|--|--|
| Senator B.I. Le Marquand | | Deputy J.A. Martin (H) | | |
| Senator F.du H. Le Gresley | | Deputy G.P. Southern (H) | | |
| Senator I.J. Gorst | | Deputy S. Pitman (H) | | |
| Senator L.J. Farnham | | Deputy M. Tadier (B) | | |
| Senator P.M. Bailhache | | Deputy T.M. Pitman (H) | | |
| Connétable of St. Helier | | Deputy T.A. Vallois (S) | | |
| Connétable of Trinity | | Deputy M.R. Higgins (H) | | |
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| Connétable of Grouville | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy of Grouville | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy J.A.N. Le Fondré (L) | | | | |
| Deputy of Trinity | | | | |
| Deputy S.S.P.A. Power (B) | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy A.K.F. Green (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |
| Deputy G.C.L. Baudains (C) | | | | |
| Deputy of St. John | | | | |
| Deputy J.P.G. Baker (H) | | | | |
| Deputy J.H. Young (B) | | | | |
| Deputy S.J. Pinel (C) | | | | |
| Deputy of St. Mary | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Bryans (H) | | | | |

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|------------------------|--|--|--|--|
| Deputy R.J. Rondel (H) | | | | |
|------------------------|--|--|--|--|

The Bailiff:

Very well. The Greffier will reset the machine and we will then move to Regulation 3 and now the Greffier will open the voting on Regulation 3.

| POUR: 40 | | CONTRE: 8 | | ABSTAIN: 0 |
|-----------------------------|--|-------------------------------|--|-------------------|
| Senator P.F. Routier | | Senator A. Breckon | | |
| Senator S.C. Ferguson | | Deputy R.G. Le Hérisssier (S) | | |
| Senator A.J.H. Maclean | | Deputy J.A. Martin (H) | | |
| Senator B.I. Le Marquand | | Deputy G.P. Southern (H) | | |
| Senator F.du H. Le Gresley | | Deputy S. Pitman (H) | | |
| Senator I.J. Gorst | | Deputy M. Tadier (B) | | |
| Senator L.J. Farnham | | Deputy T.M. Pitman (H) | | |
| Senator P.M. Bailhache | | Deputy M.R. Higgins (H) | | |
| Connétable of St. Helier | | | | |
| Connétable of Trinity | | | | |
| Connétable of St. Clement | | | | |
| Connétable of St. Peter | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Mary | | | | |
| Connétable of St. John | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of St. Martin | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of Grouville | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy of Grouville | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy J.A.N. Le Fondré (L) | | | | |
| Deputy of Trinity | | | | |
| Deputy S.S.P.A. Power (B) | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy E.J. Noel (L) | | | | |

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|----------------------------|--|--|--|--|
| Deputy T.A. Vallois (S) | | | | |
| Deputy A.K.F. Green (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |
| Deputy G.C.L. Baudains (C) | | | | |
| Deputy of St. John | | | | |
| Deputy J.P.G. Baker (H) | | | | |
| Deputy J.H. Young (B) | | | | |
| Deputy S.J. Pinel (C) | | | | |
| Deputy of St. Mary | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Bryans (H) | | | | |
| Deputy R.J. Rondel (H) | | | | |

The Bailiff:

Very well. Now, Minister, do you wish to propose Regulations 4, 5 and 6?

10.6 Draft Income Support (Miscellaneous Provisions) (Jersey) Regulations 201-(P.101/2013) - Regulations 4, 5 and 6

10.6.1 Senator F. du H. Le Gresley:

Yes. Regulation 4: “This Regulation removes the housing component from an income support household if all adult members of the household are out of the Island, in prison or in hospital for more than 4 weeks. The Minister retains the right to make payments in exceptional circumstances.” Regulation 5: “This Regulation makes some minor changes to the details of the impairment component. These changes clarify the basis under which the assessment can be carried out. They were requested by the Medical Board and are intended to better reflect the intended practical application of the impairment tests. Paragraph 3 revises the rules for assessment of a person who suffers from epileptic seizures. A person will not fall within the revised rule if his or her seizures occur while asleep and are not followed by any post-seizure dangerous behaviour.” Regulation 6: “If approved, these regulations will come into force 7 days after the date of approval.” I propose Regulations 4, 5 and 6.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of those regulations?

10.6.2 Deputy G.P. Southern:

Yes, I just want to illustrate how this rule works and how it is going to work in the future because at present, any absence longer than 4 weeks results in removal of some benefit but not housing benefit fortunately. I have come across 4 instances where people have been absent for more than 4 weeks and have received a sanction but so far not ... their rent was maintained, they were able to return to some form of normality apart from some debts when that period was over. The first case is a male in his forties and he discovered that his mother had fallen ill with cancer and that no one could drive her the 30 or so miles to the nearest hospital to get her cancer treatment. He informed the department that he was going to do this and said: “And it may well be more than 4 weeks, it could

well be up to 6 weeks that I will be absent from the Island.” But when he returned, he had debts up to there because he had not got any benefit. He still had his flat because the housing benefit was still paid. The second one is a female in her 50s. She had not seen her elder brother in his 60s who was now getting a bit frail and she suspected he was in Australia. She wanted to go and see him for the first time in at least a decade and thought it would be the last time she would be able to see him. She left the Island for 5 weeks to go to Australia and back again. She had her income support cut but thankfully her rent was still paid so she was able to move back into her flat. This may stop. The third case is a woman who gave birth - a single parent - to a child who had a serious heart defect. He had to be rushed straight into Southampton. She went over there to remain with him while he endured a whole series of operations and she stayed at the Wessex Unit. The Wessex Unit does not charge any fee but does not supply any foodstuffs so she was left with no benefit. She was there for about 9 weeks, I think, eventually before the child returned, 9 weeks without benefit. He, the little newborn, got some benefit eventually, £60 a week child benefit but she got none. She was dependent completely on charitable funds to be able to feed and clothe herself and the baby and pay for nappies, et cetera. That sort of thing happens. This 4-week rule is cumulative. A recipient of income support used to spend weekends and the odd week during the year with her boyfriend in Guernsey. A special treat every now and then she would go there, and cumulatively every year when she spent enough time there so it goes over a month, goes over 4 weeks, she gets her Income Support docked. What a crazy way to run a system, but that is the way this system works. Now, if we are to vote for this and say: “And your housing benefit goes” in these cases some people might be coming back to the Island, intending all the time to come back to the Island after a period of time when they have to be absent, to find that the rent has not been paid and the Housing Department is pursuing them for eviction. That is the reality of what is being proposed here.

10.6.3 Senator L.J. Farnham:

Notwithstanding what Deputy Southern has just said which is concerning, I think I heard the Minister say that he could make payments in exceptional circumstances. I think the Deputy might have been describing some exceptional circumstances. Could the Minister perhaps give an example of what an exceptional circumstance may be which will give comfort to the Assembly that cases of severe hardship could be avoided?

Deputy G.P. Southern:

Could I say that in each of these cases, hardship or non, circumstances or non, payment was docked.

The Bailiff:

Does any Member wish to speak on Regulations 4, 5 and 6? I invite the Minister to reply. I do beg your pardon; I missed Deputy Martin.

10.6.4 Deputy J.A. Martin:

Really it was just a question on Regulation 4: “All the adult members of the household.” I am assuming that could mean there will be children left on the Island in other arrangements, it might be aunty, uncle, older brother or whatever, I do not know, looking after them.

[17:00]

But my main question is really what discussions has the Minister for Social Security had with the Minister for Housing on this? How would they view 4 weeks of not getting any rent? Do they have a discretion? Has this been discussed really? That is all I need to know.

The Bailiff:

Does any other Member wish to speak? Now I invite the Minister to reply.

10.6.5 Senator F. du H. Le Gresley:

It is always difficult in this Assembly to listen to Members quoting experiences with income support claimants and expecting the Minister who has no knowledge of all the details of some of these cases, to respond as if I would be in a position to say yea or nay on the scant evidence that is being presented. We are not here today to discuss individual cases, but of those I would say that Deputy Southern has presented to Members some - I am not going to say which ones - but some would clearly be a position as Senator Farnham asked me where we would use exceptional circumstances to allow the household component to continue. But I must stress that we have just voted that an income support claimant who is actively seeking work has to be in Jersey. There has to be particular reasons why we would allow somebody to be outside the Island for more than 4 weeks. Looking after a very sick relative is one of those reasons which we would allow, but the example of somebody taking a holiday, no, I am sorry. You are supposed to be a job-seeker and you should be here. Can you imagine how officers feel when they arrange an interview for somebody who is a jobseeker and they say: "Well, I am just off to Magaluf for 2 weeks; so sorry, I will not be there" and they have no penalties at the moment. That is a true case; I am not exaggerating. So with that I say please support Regulations 4, 5 and 6. Thank you.

The Bailiff:

The appel is called for in relation to Regulations 4, 5 and 6. I invite Members to return to their seats and the Greffier will open the voting.

| POUR: 43 | | CONTRE: 5 | | ABSTAIN: 0 |
|-----------------------------|--|--------------------------|--|-------------------|
| Senator P.F. Routier | | Deputy J.A. Martin (H) | | |
| Senator A. Breckon | | Deputy G.P. Southern (H) | | |
| Senator S.C. Ferguson | | Deputy S. Pitman (H) | | |
| Senator A.J.H. Maclean | | Deputy M. Tadier (B) | | |
| Senator B.I. Le Marquand | | Deputy T.M. Pitman (H) | | |
| Senator F. du H. Le Gresley | | | | |
| Senator I.J. Gorst | | | | |
| Senator L.J. Farnham | | | | |
| Senator P.M. Bailhache | | | | |
| Connétable of St. Helier | | | | |
| Connétable of Trinity | | | | |
| Connétable of St. Clement | | | | |
| Connétable of St. Peter | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Mary | | | | |
| Connétable of St. John | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of St. Martin | | | | |

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| Connétable of St. Saviour | | | | |
| Connétable of Grouville | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy of Grouville | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy J.A.N. Le Fondré (L) | | | | |
| Deputy of Trinity | | | | |
| Deputy S.S.P.A. Power (B) | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy M.R. Higgins (H) | | | | |
| Deputy A.K.F. Green (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |
| Deputy G.C.L. Baudains (C) | | | | |
| Deputy of St. John | | | | |
| Deputy J.P.G. Baker (H) | | | | |
| Deputy J.H. Young (B) | | | | |
| Deputy S.J. Pinel (C) | | | | |
| Deputy of St. Mary | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Bryans (H) | | | | |
| Deputy R.J. Rondel (H) | | | | |

10.7 Draft Income Support (Miscellaneous Provisions) (Jersey) Regulations 201-(P.101/2013) - Third Reading

The Bailiff:

Do you propose the regulations in Third Reading, Minister?

10.7.1 Senator F. du H. Le Gresley:

Yes, Sir. I am not going to make any more speeches because people have heard enough from me this afternoon. But my final comment is I am very grateful for the support that I have received in this Assembly today. I do believe that we are doing our very best job to get people back into work. I am a bit upset about the criticism of officers who do a thankless task quite often. **[Approbation]** We have put in extra resources into both the Work Zone and Income Support. We are doing our

very best to deliver a first class service and I hope that the support of the Assembly today recognises the hard work of my officers.

The Bailiff:

Are the regulations seconded in Third Reading? Does any Member wish to speak in Third Reading?

10.7.2 The Connétable of St. John:

Probably the right time to raise this. I was concerned when I heard Deputy Southern mention that one of his constituents had been off-Island for 5 weeks in Australia seeing a next of kin who was not well. I just have to ask at this point then, are we paying some people too much assistance that they can afford to be off Island for 5 weeks? Yes, I accept people are ill or whatever else, but if there is an element within the department that looks into the affairs of the people who are claiming this money, to me 5 weeks down in Australia is an awful long time for anybody. If you are going to see somebody who is ill and this person is supposed to have not seen their next of kin for a decade or so, fine; but it should not be for this Island and the Social Security contributors to pick up the bill for trips like this. I would be happy if the money had come from other people. We do not know; we were not told. It is an area of concern.

The Bailiff:

I think that is a matter to take up outside the debate on Thursday.

The Connétable of St. John:

Yes. I am just raising it so the Minister may be able to look into people having extended holidays on the taxpayer.

10.7.3 Deputy G.P. Southern:

I am wishing to address those points. I will just point out that most recipients of income support are in work. That is, the majority are. Certainly anyone receiving benefit has been in work, sometimes for the past 40 years, and has managed to scrape together a few savings in order to go and visit their relatives.

The Bailiff:

Does any other Member wish to speak for the Third Reading? Do you wish to reply, Minister?

Senator F. du H. Le Gresley:

No, Sir.

The Bailiff:

The appel is called for for the regulations in Third Reading. I invite Members to return to their seats. The Greffier will open the voting.

| POUR: 43 | | CONTRE: 5 | | ABSTAIN: 0 |
|--------------------------|--|--------------------------|--|-------------------|
| Senator P.F. Routier | | Deputy J.A. Martin (H) | | |
| Senator A. Breckon | | Deputy G.P. Southern (H) | | |
| Senator S.C. Ferguson | | Deputy S. Pitman (H) | | |
| Senator A.J.H. Maclean | | Deputy M. Tadier (B) | | |
| Senator B.I. Le Marquand | | Deputy T.M. Pitman (H) | | |

| | | | | |
|-----------------------------|--|--|--|--|
| Senator F. du H. Le Gresley | | | | |
| Senator I.J. Gorst | | | | |
| Senator L.J. Farnham | | | | |
| Senator P.M. Bailhache | | | | |
| Connétable of St. Helier | | | | |
| Connétable of Trinity | | | | |
| Connétable of St. Clement | | | | |
| Connétable of St. Peter | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Mary | | | | |
| Connétable of St. John | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of St. Martin | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of Grouville | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy of Grouville | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy J.A.N. Le Fondré (L) | | | | |
| Deputy of Trinity | | | | |
| Deputy S.S.P.A. Power (B) | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy M.R. Higgins (H) | | | | |
| Deputy A.K.F. Green (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |
| Deputy G.C.L. Baudains (C) | | | | |
| Deputy of St. John | | | | |
| Deputy J.P.G. Baker (H) | | | | |
| Deputy J.H. Young (B) | | | | |
| Deputy S.J. Pinel (C) | | | | |

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|------------------------|--|--|--|--|
| Deputy of St. Mary | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Bryans (H) | | | | |
| Deputy R.J. Rondel (H) | | | | |

11. Jersey Law Commission Appointment of Commission (P.103/2013)

The Bailiff:

Very well. Then we come next to Jersey Law Commission Appointment of Commission – Projet 103 - lodged by the Chief Minister. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Act, dated 30 July 1996, in which they approved the establishment of a Jersey Law Commission, and to appoint Mr. Andrew Philip Le Sueur as Commissioner of the Jersey Law Commission for a period of 5 years with immediate effect.

11.1 Senator I.J. Gorst (The Chief Minister);

It gives me pleasure to propose Andrew Le Sueur to become a Commissioner of the Jersey Law Commission for a term of 5 years. I thank all members of the commission for the work that they undertake on our behalf in grappling with what can be some rather complex legal issues.

The Bailiff:

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition? All those in favour of adopting the proposition kindly show. Those against? The proposition is adopted.

12. States of Jersey Complaints Panel: appointment of members (P.106/2013)

The Bailiff:

We come next to Projet 106 - States of Jersey Complaints Panel: appointment of members - lodged by the Privileges and Procedures Committee. Chairman, are you happy to take this as amended? You have amended it to include a second name.

12.1 Deputy J.M. Maçon (Chairman of Privileges and Procedures Committee):

Please, Sir.

The Bailiff:

I will ask the Greffier to read the proposition as amended.

The Greffier of the States:

The States are asked to decide whether they are of opinion in accordance with Article 5(2) of the Administrative Decisions (Review) (Jersey) Law 1982, to appoint the following persons as members of the States of Jersey Complaints Panel, from whom members of Complaints Boards can be drawn, for a period of 3 years: Mrs. Claire Boscq-Scott, Mr. Stuart Catchpole, Q.C. (Queen's Counsel), Mr. Geoffrey George Crill, Mrs. Janice Eden, Mr. John Moulin, Professor Edward Sallis, O.B.E. (Order of the British Empire).

Deputy J.M. Maçon|:

First of all may I begin by thanking all the members who currently sit on the panel and discharge the duties of the Complaints Panel? It is of course an important function that they serve for our community. I would also like to thank the Members who oversaw the nomination of these candidates who have come forward, all of course are very well qualified we believe in pursuing these duties, and again just to remind Members that all these positions are of an honorary capacity. We are thankful that people have come forward to serve and are able to come forward to serve in this capacity. I let Members note what has been said in the report about these candidates and I make the proposition.

The Bailiff:

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition?

12.1.1 Deputy R.G. Le Hérissier:

It is slightly off the point, but when the Chairman was pulling together the list, did he feel that perhaps now is the time to review the whole role of the panel and whether to invest it with different powers or to restructure it?

12.1.2 Deputy G.P. Southern:

I rise once again to welcome a very learned and intelligent member in this particular case who I know will give absolutely sound advice.

The Bailiff:

Does any other Member wish to speak? Very well. I invite the Chairman to reply.

12.1.3 Deputy J.M. Maçon:

I am sure Members, if they want to know who Deputy Southern was talking about, they will approach him separately for that. I of course would make the point that this applies to all those who have come forward. In regards to Deputy Le Hérissier's comments about the powers of the panel, no, that was not raised in my committee when we were considering this, and whether he would like to have a conversation with me about that afterwards, I of course would welcome that. But we are appointing members on to this panel to be drawn from today and I maintain the proposition.

The Bailiff:

All Members in favour of adopting the proposition kindly show. Those against. The proposition is adopted.

13. Jersey Mutual Insurance Society Incorporated: alteration of fundamental rules – petition (P.108/2013)

The Bailiff:

The next matter is Projet 108 - Jersey Mutual Insurance Society Incorporated: alteration of fundamental rules – petition, lodged by Deputy Le Fondré. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to grant the prayer of the petition presented on behalf of the Jersey Mutual Insurance Society Incorporated (the "Society") that legal

effect be given to the amendment and substitution of the Fundamental Rules of the Society as set out in the petition.

13.1 Deputy J.A.N. Le Fondré:

I am hoping this is a brief item on the agenda regarding changes of the rules of the Jersey Mutual Insurance Society. The Society as appears in the name is a mutual society. There are no shareholders. It is wholly-owned by the members and it was established in 1869 and now has approximately 10,000 members, I am assuming including Members in this Assembly today. It insures of £3.7 billion worth of property and contents assured in Jersey alone. The society was incorporated by the States in 1908 and therefore it requires a petition to be brought to the States to change what are referred to as its fundamental rules. Members will recall that I presented such a petition in September and this aspect today is the second stage in the process of changing those rules. The final stage is a proposition brought back by the Chief Minister for approval by this Assembly. As a member of the Jersey Mutual I have been asked to bring the petition to the States and indeed, having had a long association with the Society as a member, part of the audit team and part of the accounts' preparation team at varying stages of my career, I am honoured to have been asked to do so. There are no financial or any other implications and this is consistent with what has happened in the past. As noted in the petition the changes in the main are aimed at updating and modernising the rules, in particular in light of the commencement of regulation of the Society by the Jersey Financial Services Commission, and accordingly they have obviously been made in consultation with J.F.S.C. (Jersey Financial Services Commission). The changes are obviously summarised in the report, but in anticipation of a question from Deputy Le Hérissier, a number of changes are made with the aim of reducing the likelihood of this process having to be repeated in the near future and indeed this has partially been done by making increased references to the by-laws of the Society. There is also an amendment which limits the potential call on any member which up to now has been done by way of a treaty, i.e. laying-out of the rest of the underwriters, and there are some other sundry changes. The petition seeks the replacement of the existing fundamental rules of the Society for those that are detailed in the petition itself and those were approved by the members of the A.G.M. (Annual General Meeting) on 7th December 2012. What I would like in conclusion is just to thank the Greffier and his team for their guidance and advice to both me and the Society on the procedures of bringing forward the petition, and I would like to propose the petition.

The Bailiff:

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition?

13.1.1 Senator I.J. Gorst:

This, I think when Members first read the proposition and the accompanying report, seemed a somewhat old-fashioned approach, but it is a requirement of the Society and the way that it is set up that the States are involved in this process. Therefore I hope that Members will approve this proposition so that I can then go off and request the necessary changes. There is no objection to these changes on behalf of the J.F.S.C. nor the Council of Ministers. In fact, both support and I lend my support and ask that Members accordingly support the proposition.

The Connétable of St. John:

Do we need to declare an interest as this is a mutual society?

The Bailiff:

I would not have thought so, no. Because it is a mutual society it is not owned by anybody, is it? I do not think you can have a financial interest in it. Very well then. Do you wish to reply?

13.1.2 Deputy J.A.N. Le Fondré:

I think I will just thank Members I hope for their support.

The Bailiff:

Very well. All those in favour of adopting the proposition kindly show. Those against. The proposition is adopted.

[17:15]

ADJOURNMENT PROPOSED

Chairman, do I take it you would not wish to start your in-committee debate at this stage?

Deputy J.M. Maçon:

Yes, quite, Sir. I do have a slight concern in my committee about whether we should have this tomorrow morning or whether we should defer this to the next sitting. I am quite keen to get this over and done with considering the amount of work which has to be done, but I would put that before the States Members and ask them if they would want to take this tomorrow morning, as has been tabled.

The Bailiff:

At the moment it is listed for tomorrow morning. I think Members are expecting to take it tomorrow. It is just a question of whether you start now or tomorrow morning.

Deputy J.M. Maçon

Then can I propose the adjournment and we reconvene tomorrow to discuss it?

The Bailiff:

Before we do there are 2 matters I would like to mention. The first one is simply to inform Members that the Minister for Education, Sport and Culture has lodged Projet 126: The Lord Portsea Gift Fund: revised rules and conditions. The second is just to mention the question of presiding tomorrow. I was originally due to preside. The Deputy Bailiff is attending a function in London in connection with the Commonwealth Games, representing the Island. But as Members may know, Sir Godfray Le Quesne, Q.C., passed away last week. He really was a most imminent Jersey man. Not only was he one of Jersey's leading lawyers, he was during his time one of the leading lawyers in the whole of the United Kingdom and was generally so regarded. He sat on our Court of Appeal from 1964 when it was first founded to 1997. So that was some 33 years altogether, and the reason that the Court of Appeal has been able to attract lawyers of the highest calibre from the U.K. is largely because of Sir Godfray. His stature was such that other leading lawyers from the U.K. said: "Well, if Sir Godfray's on the Court of Appeal, I think I would like to be on it too." Hence he really is largely responsible for the outstanding reputation of our Court of Appeal. He also of course was requested by the Legislation Committee of the day to prepare a report on judicial and legal services, and he has been a loyal friend of Jersey. So I think it entirely right that the Bailiff should represent the Island at his funeral. So I shall be going to London tomorrow. In the circumstances I have asked the Connétable of St. Clement to preside over the in-committee debate tomorrow. **[Approbation]** Very well. The Assembly reconvenes at 9.30 a.m.

ADJOURNMENT

[17:17]