

# STATES OF JERSEY

## OFFICIAL REPORT

**MONDAY, 30th JUNE 2014**

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[14:31]

**The Roll was called and the Dean led the Assembly in Prayer.**

## **COMMUNICATIONS BY THE PRESIDING OFFICER**

### **1.2 Welcome to His Excellency The Lieutenant Governor**

**The Deputy Bailiff:**

Well, first, as usual, I am very pleased to welcome His Excellency the Lieutenant-Governor on behalf of you all. [Approbation]

### **1.2 Welcome to Distinguished Visitor – Right Honourable Diana Abbott, Member of Parliament for Hackney North and Stoke Newington**

**The Deputy Bailiff:**

I am also very pleased to acknowledge in the public gallery the Right Honourable Diana Abbott, Member of Parliament for Hackney North and Stoke Newington, very welcome to watch our proceedings for as long as she can bear it. [Laughter] [Approbation] Members will be aware that we have a very long Order Paper. A couple of propositions have been withdrawn or delayed, but I thought I would share some statistics with you in advance of our sitting. We have this afternoon plus 6 days, so that is 39 hours from tomorrow, and there are 48 propositions now to be debated. Four of them are amendments to the proposer's proposition, so if the proposition is proposed as amended we are left with 44. If the average time for debate of a proposition is an hour, we will be 5 hours short. A more practical approach might be to accept that there are some controversial debates, and Members will forgive me for saying that there appears there are several potentials for that. If we had 3 such debates, taking the best part of a day each, that would take some 19.5 hours from our bank of 39. It would leave 20 hours for 41 propositions. Assume for a moment, if you will bear with me, that 12 of those are straightforward and take a quarter of an hour each, that would be 3 hours from the bank and you are left with 17 hours and 29 propositions, roughly 35 minutes each. I would suggest that obviously will not be enough. It would suggest also, therefore, that the longer debates may have to be curtailed. Now, there is no point today in asking why we are in this position. The fact is that we are and the questions and the debates will need to be managed if we are going to get anywhere near finishing the business bearing in mind that the Order Paper for the next sitting looks as bad for length, if not worse, than the present one. I think there are these consequences. The first is this. If possible, we should try to get through questions and one or more propositions this afternoon. I do not, therefore, expect to allow more than 4 minutes per question. Standing Orders say that the purpose of Question Time is to get factual answers. Ministers should in particular please curtail their answers to giving factual responses to the questions as concisely as possible. Questioners should focus on what information they want to extract, not on what message they want to deliver. Secondly, Standing Orders on the content of speeches will, I hope, be strictly enforced for relevance and repetition. Repetitive speeches are not necessary and we do not have time for irrelevant ones. I expect to approach the debates by being reasonably accommodating with repetitive material during the first 4 speeches on each side of the debate. Thereafter, Members can expect to be pulled up by the Chair unless they have something new to say. I choose 4 because some lawyers have been heard to say that judges need to be told something at least 4 times [Laughter] before you can be sure that they have understood the point. Although that is quite wrong [Laughter], I will adopt that principle this week. Thirdly, Members should ask themselves before they get up whether they have anything valuable to contribute to the debate. Sometimes we have heard Members start with a conversational statement like: "I am not sure what I think about this proposition." Well, if I may say so, if you not sure, stay seated. Almost certainly one of your colleagues will not suffer from the same self-doubt and by the time he or she has finished that speech you may be closer to knowing

what you think. Finally, almost certainly, I will cause irritation, annoyance and disquiet to Members over the course of the next 3 days while I am presiding. Sometimes I am bound to make a wrong call or a harsh call. I would like to apologise for that in advance and I ask Members to agree to keep their eyes fixed firmly on the wider picture in the management of this very long order of business, both for this sitting and the next one. **[Approbation]**

## QUESTIONS

### 2. Written Questions

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

May I ask a point of procedure and possibly a point of order? While I appreciate your direction and I also agree we need to act expediently, it seems to me, though, slightly unfair that Question Time should be penalised because at the last sitting we agreed to meet a day early to get through Question Time. We did not agree to move Public Business to a day early. Also, given the fact that certain Members are not here who might have been wishing to partake in even some of the less important debates, I think it should be put to a vote so that the proposition should be we carry on to questions until they are finished.

[14:45]

I imagine we will still have time left over anyway, and then if there is time at the end of that we proceed with Public Business as suggested.

#### The Deputy Bailiff:

Well, I have given an indication of the way I propose to do it, but ultimately I am in the hands of the Assembly. If you wish to make that proposition you can make it. Is it seconded? **[Seconded]** I take it Members do not wish a debate on it. Those Members in favour of adopting that ... the appel is called for. The proposition from Deputy Tadier is that we allow, if necessary, the full amount of time provided for by Standing Orders on Question Time.

#### Senator P.F.C. Ozouf:

I do not understand the voting. What are we voting on?

#### The Deputy Bailiff:

The proposition from Deputy Tadier is that ... you missed the earlier section. Senator Ozouf, for your benefit I shall say that I had given an indication that I was proposing to allow 4 minutes per question in order that we could get on to the substantive propositions in good time this afternoon.

#### Senator P.F.C. Ozouf:

Sorry, I was here and I did listen to it. I just did not understand the question.

#### The Deputy Bailiff:

Oh, I see. The proposal from Deputy Tadier is that we allow up to the full amount of time provided for by Standing Orders for questions.

<b>POUR: 21</b>		<b>CONTRE: 20</b>		<b>ABSTAIN: 0</b>
Senator A.J.H. Maclean		Senator P.F. Routier		
Senator B.I. Le Marquand		Senator P.F.C. Ozouf		
Connétable of St. Clement		Senator A. Breckon		
Connétable of St. Lawrence		Senator F.du H. Le Gresley		
Connétable of St. John		Senator I.J. Gorst		

Connétable of St. Brelade		Senator P.M. Bailhache		
Connétable of St. Martin		Connétable of Trinity		
Deputy R.C. Duhamel (S)		Connétable of St. Mary		
Deputy J.A. Martin (H)		Connétable of St. Ouen		
Deputy G.P. Southern (H)		Connétable of Grouville		
Deputy of St. Ouen		Deputy R.G. Le Hérisssier (S)		
Deputy J.A. Hilton (H)		Deputy of Grouville		
Deputy M. Tadier (B)		Deputy of Trinity		
Deputy M.R. Higgins (H)		Deputy S.S.P.A. Power (B)		
Deputy A.K.F. Green (H)		Deputy K.C. Lewis (S)		
Deputy G.C.L. Baudains (C)		Deputy E.J. Noel (L)		
Deputy of St. John		Deputy J.M. Maçon (S)		
Deputy of St. Martin		Deputy S.J. Pinel (C)		
Deputy R.J. Rondel (H)		Deputy of St. Mary		
Deputy N.B. Le Cornu (H)		Deputy R.G. Bryans (H)		
Deputy S.Y. Mézec (H)				

## **2.1 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF H.M. ATTORNEY GENERAL REGARDING THE COMPTROLLER AND AUDITOR GENERAL’S POWERS TO ACCESS COMPUTER DATA:**

### **Question**

Will H.M. Attorney General clarify, with reference to recommendation 5 of the Comptroller and Auditor General’s (C & AG) report R.77/2013 (‘Public Audit in Jersey’) the full extent of the C&AG’s existing legal powers to access computers in the execution of her statutory duties and, in particular, whether those existing powers would permit access for the purposes of assessing the operation of computer systems including standards of information security?

### **Answer**

The relevant part of recommendation 5 of the C & AG’s ReportR77/2013 stated that where a legislative opportunity arises, specific provision about rights of access to computers should be made.

The C & AG’s existing legal powers are contained in the Public Finances (Jersey) Law 2005 (the Law).

Article 46 of the Law imposes a duty on the C & AG to provide the States with independent assurance that the public finances of Jersey are being regulated, controlled and accounted for in accordance with the Law. This provision is drafted in broad terms but also makes reference to particular duties, and how the requirement is taken to apply to States funded bodies and independently audited States bodies.

For the purpose of performing these functions the C & AG has statutory powers. Article 55 of the Law enables the C & AG to summons a person to produce a specified record, or to require a person who has access to a record to provide the information contained in it. Article 56 of the Law enables the C & AG to enter a building or other premises and while there inspect any records.

The meaning of “record” for the purposes of the Law is “information recorded in any form and, in relation to information recorded otherwise than in legible form, a reference to its provision or production includes a reference to providing or producing a copy of the information in legible

form”. Information recorded in “any form” includes electronic records whether those are held on computers, USB drives, discs, or in any new format that may be developed in the future.

In my opinion, these statutory powers could be relied on where the C & AG, for the purpose of regulating, controlling and accounting for the public finances of Jersey, needs to access the records on a States computer system to assess whether the way the system operates and its standards of information security are adequate.

Where technical expertise would be required, the C & AG could authorize others to carry out her functions in accordance with the Public Finances (Transitional Provisions) (No.2) (Jersey) Regulations 2005.

## **2.2 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE INCOME TAX DEPARTMENT’S ACCESS TO BANK ACCOUNTS:**

### **Question**

Could the Minister clarify whether the Taxes Office has the legal right to directly access and withdraw funds from what it deems to be delinquent individual and business accounts locally and, if so, could he detail the number of individual accounts accessed and the amount of funds withdrawn in this way over the past 6 years (2008-2013) in Jersey?

### **Answer**

The Taxes Office has no legal right to directly access or withdraw any funds from a bank account held in the name of an individual, company or any other entity.

The Taxes Office may seek to recover payment of an income tax or GST debt by applying for a judgment in either the Petty Debts Court or the Royal Court. Once granted, the judgement is passed to the Viscount’s Department who will take action to recover the debt due to the Treasurer of the States. This may be through the distraint of goods belonging to the debtor or securing funds from the debtor’s bank account

The Taxes Office has not maintained a detailed record of the number of occasions on which the Viscount Department has enforced a judgement against a debtor’s bank account. However, this action has been taken on several occasions over the past 10 years.

## **2.3 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE RESULTS OF THE TAXI CONSULTATION:**

### **Question**

Will the Minister inform the Assembly of the conclusions, if any, he has reached from his extensive consultation on taxi regulation throughout his term of office, what action he has already implemented to put these conclusions into effect and what action, if any, he will be taking before his term of office is completed?



Will the Minister further inform the Assembly whether he considers he has secured any improvements in the taxi service or addressed any of the recommendations of the Channel Island Competition Regulatory Authority or do these remain outstanding?

**Answer**

Yes, there are a number of regulatory reform initiatives I intend to implement as a result of consultation and these will be presented as a Regulatory Policy Report to the States Assembly before the end of its present term.

The recommendations of CICRA have been fully considered as an integral part of the review process and these recommendations will be incorporated where I consider this appropriate. However, as I am sure the Deputy understands, I am not able to divulge particulars at this time, as the detailed policy remains under development and has the potential to be commercially sensitive.

As well as, establishing the policy objectives to fulfil my regulatory duty to ensure that *“there is an adequate, efficient and reasonably priced cab<sup>1</sup> service available throughout Jersey at all times”<sup>2</sup>* into the future. I also recognise the need to respond to more immediate customer concerns.

The consultation results published in my White Paper Report this year, clearly showed, above all else, customers were confused about the two types of taxi and the different fares they charge. The consultation found a proposal to set an industry-wide maximum fare for all taxi-cabs has wide spread public support. Of the 742 individual responses received more than 90% agreed that the TTS Minister should set a maximum level of fares for all taxis.

Organisations in favour of introducing an industry-wide maximum tariff included:

- Jersey Chamber of Commerce
- Jersey Consumer Council
- Channel Islands Competition and Regulatory Authority
- Jersey Cab Drivers Association
- Jersey Taxi Drivers Association

Therefore, I have recently written to all taxi-cab companies, the Jersey Taxi Drivers Association and the Jersey Cab Drivers Association to advise them of my intention to set an industry-wide maximum fare tariff for all taxi-cabs. Preparatory work for this has started and industry engagement will take place later this year.

I am, as always, happy to meet with the Deputy to consider ideas he might have or any concerns he wishes to raise.

<sup>1</sup> A cab service defined as one where the vehicle is hired as a whole, generically referred to as a taxi-cab.

<sup>2</sup> Motor Traffic Law 1935

**2.4 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING ENERGY EFFICIENCY GRANTS:**

**Question**

Will the Minister publish the recent Internal Audit Review of the Energy Efficiency Services Grants carried out at the request of the Environment Scrutiny Panel and, if so, when?

Further to the response given on 29th April 2014, will he provide an explanation of the system for establishing eligibility for grants to carry out improvement work to privately owned properties and explain –

- (a) how the criteria set for eligibility are applied to grant decisions;
- (b) whether all or a single criteria are applied;
- (c) whether grants have been made to home owners who fall outside the capital asset disregard limits set by Social Security?

Would he inform the Assembly what arrangements, if any, he has made to secure the cost of grant against value of the property, identify the increase in property values as a result of undertaking such works and whether the costs can be recovered from the onward sale of the property?

### **Answer**

The recent Internal Audit Report was carried out by the Chief Internal Auditor (CIA) of the States and it is the CIA which controls the issuing and distribution of audit reports. The role of Internal Audit is to provide assurance on systems and controls in the States of Jersey, is internal to the States of Jersey and Internal Audit Reports are not published. Internal Audit presents quarterly to the Audit Committee on Internal Audit activity including reports issued. Both the Public Accounts Committee (PAC) and Scrutiny Panels can request information, including that of Internal Audit.

In response to a request by the Environment Scrutiny Panel, the CIA agreed to share the Audit Report with Scrutiny and a copy of the full report was sent to Scrutiny earlier this month in confidence.

Personally, I was satisfied that Internal Audit's thorough investigation of the energy efficiency grant schemes has shown that my Department is administering the scheme in accordance with the relevant Financial Directions. Internal Audit raised some recommendations during their review and I am pleased to say all recommendations were addressed during the audit fieldwork and this was confirmed in the report.

- (a) *how the criteria set for eligibility are applied to grant decisions;***
- (b) *whether all or a single criteria are applied;***

The eligibility criteria for all applications to the Home Energy Scheme are as follows and based on the circumstances of the applicant.

This scheme is currently available to households that meet **any** of the following criteria:

- households registered on Income Support
- individuals registered on the 65+ Health Plan (Westfield)
- individuals that receive the Food Costs (GST) Bonus
- anyone aged over 65 that currently holds less than £50,000 in savings if married / co-habiting or £30,000 savings if living alone

(Members are referred to the detailed information on the scheme available on gov.je for further information<sup>1</sup> and application information on the scheme)

If an individual is applying on the basis that they are registered on Income Support, the 65+ Health Plan or the Food Costs Bonus scheme, the information that the applicant provides is sent to the Social Security Department (under a secure data sharing agreement) for verification. The Department refer to their database and confirm that the applicant is in receipt of the benefit as claimed. Thus the verification process in these cases is led by the Social Security Department who has already carried out their own eligibility checks on the individuals concerned.

The Scheme has expanded since it began in 2009. Previously, the eligibility criteria have referred to smaller sub-sets of recipients of Income Support (e.g. receipt of the Cold Weather Payment) but nevertheless, the eligibility verification route through the Social Security Department was the same.

Of the 1,330 successfully complete households assisted by the scheme 1,204 have been accepted on one of the three eligibility criteria outlined above.

There is a fourth criteria for eligibility that applicants may apply under – *‘anyone aged over 65 that currently holds less than £50,000 in savings if married / co-habiting or £30,000 savings if living alone’*. This age based criteria was added after approval the Jersey Energy Trust and the Minister in 2011 and initially open to people of low savings older than 70. Later in 2013, this category was widened to reduce the age from 70+ to 65+. These criteria aim to assist people that are vulnerable by virtue of their age but that fall outside (or do not claim) of Income Support. In this case, the applicant declares their savings which does not include the value of their home. In applying for the grant, the applicant is advised that their information must be true and accurate and that the Energy Efficiency Service should be notified of any relevant change in circumstances.

Of the 1,330 of households assisted by the scheme 122 have been accepted on this last eligibility criteria.

In all cases, the application form states that the information provided may be cross checked and any person who knowingly makes any false representation for any purpose is liable to repay the amount fraudulently obtained.

There is a further route if applicants are found to be ineligible for grant assistance under the usual criteria but that they feel their circumstances mirror the eligibility of the scheme in some way. In this case, they have the opportunity to make an appeal to the Minister directly. These are considered on a case-by-case basis and further investigation is gathered in order to provide a report and recommendation to the Minister who can choose to accept an application under his discretion using a Ministerial Decision. Since the Scheme began in 2009, only 4 cases have been considered by the Minister under this route.

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<http://www.gov.je/SiteCollectionDocuments/Environment%20and%20greener%20living/ID%20Energy%20Efficiency%20Service%20application%20booklet%2020130829%20CS.pdf>

<http://www.gov.je/SiteCollectionDocuments/Environment%20and%20greener%20living/F%20Home%20Energy%20Scheme%20application%20form%2020130829%20CS.doc>

The verification and application of grant eligibility was a matter covered by the Internal Auditor's sampling. No breaches of procedure were identified.

***(c) Whether grants have been made to home owners who fall outside the capital asset disregard limits set by Social Security***

The Energy Efficiency Service does not consider capital asset disregard limits in evaluation of its grant applicants – the eligibility for grants is based solely on the criteria outlined. There are some specific rules on capital assets for the benefits administered by Social Security.

Depending on the type of Income Support household, a certain amount of savings and investments are completely disregarded, but benefit is progressively withdrawn above this level. However, Income Support does not recognise the capital value of a household's main home, and so many elderly people will be in the position of being "asset rich, but cash poor" as they occupy a potentially valuable property but have little or no income to fund day-to-day costs, let alone energy efficiency improvements to their home.

In terms of households qualifying for the Food Costs Bonus, the answer to the question is likely to be a qualified yes, since households who qualify for this benefit are by definition just outside the eligibility criteria for Income Support, and so some of these will be prevented from receiving Income Support due to their capital assets. That said, the Food Costs Bonus is also targeted towards low income households, as it requires that the applicant is not eligible to pay Income Tax. Therefore, a household disqualified from Income Support on the grounds of capital assets but still eligible for the Food Costs Bonus would have to be in a position that they pay no tax whatsoever on the income from their assets.

The 65+ Health Plan (Westfield), also has the requirement that a person does not pay Income Tax, but additionally has an asset threshold of £20,000 for a single person and £30,000 for a couple.

Grants to individual home owners are not secured against the value of a property. Not all applicants are owner-occupiers since in many cases they are tenants. Tenanted properties are eligible for a selection, but not all, of the available energy efficiency measures.

Energy efficiency measures carried out to a property that is applicant-occupied include: loft and/or cavity wall insulation; the provision of low energy light bulbs; draught proofing; pipe lagging and heating system improvements including potentially including a new boiler or storage heaters. Measures are only installed if deemed appropriate (by a survey) for the property in question. The benefit for the vulnerable home owner is increased comfort and a lower energy bill, the benefit to the Island is a reduction in energy use and the associated carbon emissions.

Since 2012 when applying to the Scheme applicants are advised that if their property is put up for sale during the HES process, they will no longer be entitled to any works from the EES, because the vulnerable applicant as the homeowner themselves will not benefit from these measures directly. Applicants are advised that a re-assessment can be carried out if properties are removed from the market.

If the applicants go on to sell their property once the energy efficiency service works are completed this is beyond the scope of the scheme or provision of a grant. It is worth noting that the scheme caters to some of the most vulnerable people in our community. They have often lived in their homes for their whole lives and have no wish to move. Often it would be more logical for them to

‘down-size’ into a smaller more modern accommodation but for many reasons they do not choose to do this. Our Scheme respects this and aims to help as many eligible vulnerable Islanders as possible.

At the inception of the Scheme it was agreed that it needed to be as simple as possible in order to assist as many eligible applicants. Claw-back provision was felt to be difficult to administer and potentially deter applications. Should treated home go on to be sold, the measures remain in place and continue to deliver the intended benefits i.e. carbon savings, financial savings and improvements in comfort to the new occupants.

Properties which are tenanted by eligible applicants can receive some of the suite of energy efficiency measures offered but not boiler or storage heater replacements. In carrying out work in tenanted properties, the Landlord gives their consent for the work to go ahead but first they are offered the opportunity to use the survey information to either do the work themselves or to pay for the Scheme to carry out the work for them. If the Landlord does not take up these options then the EES will fund the work so that the tenant themselves still benefits from improved comfort and lower bills. It is important to remember that some of the most vulnerable Islanders are in rental accommodation that may be of a very poor standard. When developing this scheme, the Minister and the Jersey Energy Trust agreed that this group should not be excluded from the benefits that the Scheme can bring to them. Upon agreeing to works the landlord is required to sign a declaration to agree not to raise the tenants rent for one year as a result of the property improvements carried out by the Scheme.

In contrast, energy efficiency grants offered to Community Buildings are treated differently. If the eligible organisation is an owner-occupier then there is a provision that covers the onward sale of the building within a period of five years. The value of energy efficiency improvements to this category is often larger than to individual home owners. Thus these grants are underpinned with several conditions including that the organisation must confirm that it has no plans to sell or change the use of the property in question in the next 5 years. They are required to inform the Department if this position were to change. If the property were to be sold within the 5 year period, an appropriate proportion of the grant funding is required to be paid back to the Department. The Department has no need to invoke this clause since the inception of the scheme.

If the eligible community building is tenanted, then the landlord is required to agree that they will not increase the rent to the tenant as a result of the improvement in the fabric of the building as paid for by the grant. Typically, tenanted community buildings assisted by this scheme have landlords that are not within the private sector e.g. the Parishes or religious groups.

## **Conclusion**

The Environment Scrutiny Panel has received a copy of the Internal Audit Review of the Energy Efficiency Services Grants and in his capacity as Chair of this Scrutiny Panel; Deputy Young will have seen the report. I was satisfied that the review has shown that my Department is administering the scheme in accordance with the relevant Financial Directions.

The Deputy is reminded of the open invitation that he has received to attend the Department to further discuss any queries he may have in respect of this Scheme.

The Department takes its’ financial controls very seriously; if the Deputy has evidence of ineligible applicants receiving grant assistance then he should provide that to the Minister so it can be fully

investigated. If it is found that an applicant provided false information/representation in order to obtain a grant then the Department will have the opportunity to recover the value of the grant back.

## **2.5 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING P.S.V. LICENCES:**

### **Question**

Will the Minister inform the Assembly of his legal powers to issue, suspend, revoke or refuse a Public Service Vehicle (PSV) badge or impose conditions on badge holders, how such powers are administered in practice, to whom they are delegated, the criteria or policy tests applied, the internal checks to ensure transparency, objectivity and fairness of these quasi-judicial decisions, the appeal arrangements and the safeguards he has implemented to ensure the integrity of the PSV licensing system for the public and badge holders generally?

Would he further provide the Assembly with the following information in respect of PSV decisions since he was appointed as Minister -

- (a) The number of badges issued and the total number of current badges
- (b) The number of badges revoked
- (c) The number suspended, the reasons for such decisions and period of suspension
- (d) The number of appeals lodged by PSV holders and their outcomes
- (e) The number of complaints received from PSV holders
- (f) The number of complaints received from the public about badge holders
- (g) whether there were any prosecutions involving PSV badges ?

### **Answer**

Through the Inspector of Motor Traffic, Article 29 of the Motor Traffic Law (Jersey) 1935 provides the Minister for Transport and Technical Services with the power to issue PSV badges, for a person to hold a badge to drive different types of vehicle, where that person is of age, is fit (both as to health and as to character) to drive public service vehicles of the specified type, is capable of safely driving public service vehicles of the specified type and has an adequate knowledge of Jersey.

Article 29 states that the Inspector of Motor Traffic shall not issue a badge to drive a PSV vehicle where he is not satisfied of the above criteria, set out in the law. Where a badge is not issued the applicant has the option to appeal to the Minister and the right to appeal to the Royal Court under Article 33.

Article 30 of the Law provides that the Minister for Transport and Technical Services may suspend the authority the badge gives the person to drive a public service vehicle, either for a specified period or for an indefinite period, on the grounds that the Minister is satisfied that, by reason of the person's conduct the person is either permanently or for the time being, not a fit person to drive a public service vehicle of the type specified on the badge.

The Minister has delegated authority to certain officers under Article 30, namely the Inspector of Motor Traffic, the Deputy Inspector of Motor Traffic and the Senior Traffic Officer, all of whom have taken oath before the Royal Court to well and faithfully discharge the duties of their

respective offices, to grant and suspend public service vehicle badges, subject to the Minister approving policies and standard conditions. However, only the Minister may revoke a PSV Badge.

### **Policy and Tests Applied**

All applicants for a PSV badge must:

1. Hold a full Jersey driving licence
2. Complete an enhanced Disclosure and Barring Service (DBS) check to prove they are fit as to character. This is done to find out if the applicant has any criminal convictions including motoring offences. <sup>1</sup>
3. Attend a briefing to receive a code of conduct and ensure the applicant understands what is expected of a PSV badge holder (Appendix A).
4. Submit a medical certificate to prove their fitness to drive a public service vehicle.
5. Pass a PSV driving test, to demonstrate that the applicant understands and has attained the driving standards expect of a PSV driver.
6. Pass an Island knowledge test, to demonstrate the applicant has a good knowledge of the location of places and areas in the Island as it is essential for them to be able to perform their job. This part of the process is divided into two sections, written and oral, the time allowed for the full knowledge test is two hours.

<sup>1</sup> The results of all DBS checks are vetted by using the Rehabilitation of Offenders (Jersey) Law 2001

All PSV badge holders must adhere to the Motor traffic (Jersey) Law 1935 and the Code of Conduct published pursuant to Article 37(4) of the law.

Complaints received regarding PSV badge holders are considered against the criteria set out in the Motor Traffic Law (Jersey) 1935. Where necessary law officer advice is sought to provide clarification in its interpretation.

When requested, the identity of complainants is always treated with strict confidence. However, in order to allow the PSV badge holders a full opportunity to respond to the complaint, they are provided with a résumé of the allegations and supporting evidence. For any complaint to be heard evidence is required, either in the form of a written statement or other documentary information.

PSV badges cannot be suspended or revoked without a valid reason. Depending upon the seriousness of the allegation received by DVS, a full enquiry including interviews with badge/licence holders may be undertaken. Interviews are always attended by two TTS Officers, where serious allegations have been made these may be both the Inspector of Motor Traffic and Deputy Inspector. All complaints are considered in the light of the individual circumstances. Drivers attending interviews are allowed to be accompanied by representatives, should they feel it necessary.

Following any complaint and enquiry, badge holders are provided with a letter setting out the decision and basis it was made upon, with the route of appeal available to them should they contest the outcome.

Where upon the balance of probability a compliant is found to be justified:

- A first offence will usually result in a warning and a record of the incident being placed on file for future reference.

- A second offence may result in suspension of the PSV badge/licence with an option of appeal to the Minister.
- A third offence can result in the suspension by the Inspector of Motor Traffic and where appropriate, possible revocation of the licence upon review by the Minister.

In all instances PSV badge holders have a right of appeal to the Royal Court against the decisions of the Minister, Inspector of Motor Traffic or Senior Traffic Officer.

**a) Total Number of Current PSV Badges**

<b><u>Category</u></b>	<b><u>Count</u></b>
(A) Taxi-Cab	480
(B) Omnibus	288
(C) Char-à-Banc	319
(D) Mini Bus	163
(E) DUKW	21
(F) Double Decker	5
(G) Limousine	3
(H) Limo Bikes	5
	Total
	<b><u>1,284</u></b>

**Total Number Of PSV Badges Issued from 01/10/11 to 23/06/14**

<b><u>Category</u></b>	<b><u>Count</u></b>
(A) Taxi-Cab	560
(B) Omnibus	320
(C) Char-à-Banc	394



(D) Mini Bus	186
(E) DUKW	21
(F) Double Decker	5
(G) Limousine	3
(H) Limo Bikes	5

Total 1,494

**Total Number of First Time PSV Badges Issued from 01/10/11 to 23/06/14** Total 88

There are no restrictions on the numbers of PSV badges issued

**b) Number of badges revoked** Total 9

**c) Number of badges suspended** Total 12

**Reasons for suspension:**

- Smoking in a public service vehicle
- Operating with expired PSV badges
- No vehicle provided to operate service
- Drinking and driving (Appendix B)
- Awaiting outcome of serious court proceedings
- Medically unfit to drive a public service vehicle

Periods of suspension vary from 3 days, 1 week, 1 month, or an indefinite period in cases awaiting court proceedings or medical fitness.

**d) The number of appeals lodged by PSV badge holders and their outcomes** Total 0

**e) Number of complaints received from the Public about badge holders from 01/10/11 to 24/06/14**

2011 = 12

2012 = 15

2013 = 13

2014 = 5

Total 45

**f) Number of PSV badge holder 'drive on driver' complaints received from October 2011 – 23 June 2014**

2011 = 11

2012 = 10

2013 = 9

2014 = 6

Total 36

**g) Number Prosecutions**

None by DVS, prosecutions are undertaken by either Parish Authorities or States Police. These authorities advise DVS where the outcome of any parish hall enquiry or trial is considered relevant to the defendant's PSV status.

## CODE OF CONDUCT

1. You should be clean and smartly dressed.
2. You should be courteous.
3. You should not drink alcohol while on duty.
4. When you are waiting for hire you should keep close to your taxi-cab.
5. When your taxi-cab is available for hire you should not normally refuse a hire. This is particularly the case if yours is the first (controlled) taxi-cab on a taxi rank or if you are hailed when driving your taxi-cab. However, you may do so if you reasonably believe that -
  - your fare will not be paid;
  - the hire will last for more than an hour;
  - the hirer's clothing will dirty or unreasonably wet the interior of your taxi-cab;
  - the hirer will act in a disorderly manner during the journey.
6. In particular you should not refuse a hiring by a person with a disability. But if you must because your taxi-cab cannot take their wheelchair you should try your best to find one that can.
7. You should not seek passengers in a manner that may cause a nuisance, for example by stopping and asking people if they need a taxi-cab.
8. You should arrive for a booking at the correct time. However, if this proves to be impossible you must try to inform the hirer that you will be late.
9. You should assist passengers. For example, you should open doors, help load and unload luggage and to move it to or from premises where it is reasonable to do so.
10. You should not normally refuse to carry in your taxi-cab luggage or any other items accompanying a passenger. However you may refuse to carry -
  - an animal, although you should carry a guide dog or a hearing dog unless you have a good medical reason for not doing so;
  - an item that weighs more than 32 kilograms;
  - an item which because of its size or nature cannot be safely carried in the taxi-cab.

11. You should normally take a hirer to the destination requested but may end a hire at any time or place if the hirer -
  - acts in a disorderly manner;
  - smokes in your taxi-cab;
  - continues to eat or drink in your taxi-cab after you have asked them to stop doing so;
  - continues to play a radio, tape or disc after you have asked them to stop doing so
  - continues to distract your attention while driving after you have asked them to stop doing so.
12. You must not start your taxi meter until the hire starts. This usually means when a passenger gets into your taxi-cab but if you have been asked to go to a certain place to pick up passengers it means when you arrive at that place.
13. Unless your passenger agrees, you should not play a radio, tape, disc or similar device while your taxi-cab is on hire. This includes wearing a personal stereo. However, you can use normal taxi communication equipment.
14. You must not charge or attempt to charge more than the correct amount. In particular you must ensure that you set your taxi-meter to the correct tariff. The tariffs must be displayed prominently in your vehicle.
15. You should keep your taxi-cab in a clean and tidy condition, both inside and out, and promptly repair it if it is damaged.
16. You should regularly maintain your taxi-cab and keep a log that you have done so.
17. You should ensure that the sign on your taxi-cab that shows if it is available for hire is not lit when it is not available for hire.
18. If your taxi-cab is a controlled taxi-cab you should not allow it to stand on a taxi rank unless it is available for hire. If your taxi-cab is a restricted taxi-cab you must not pick-up passengers from, on or near a taxi rank or stand on any taxi-rank although you may pick up a passenger at the taxi rank at the Airport, Albert Pier or Elizabeth Harbour if no controlled taxi-cab is available to do so.
19. You should not involve yourself in conflict with other road users, other psv drivers or members of the public but should refer any complaint to the Driver and Vehicle Standards Department.
20. You should make your self aware of the laws governing your profession and observe the rules of the road.

21. You must wear your badge in a conspicuous position so that it can be easily legible when you are driving your taxi-cab
22. You must produce your badge for examination on being requested to do so by a Police or Traffic Officer.
23. You must ensure that inside your taxi-cab is displayed a sign in a position that can be easily read by a passenger showing the PSV taxi-cab number.

## Appendix B

### Public service vehicle licences and badges - review of policy following disqualification of a public service vehicle driver

A decision made 1 October 2010 regarding: Public service vehicle licences and badges - review of policy following disqualification of a public service vehicle driver.

Decision Reference: MD-T-2010-0094			
Decision Summary Title (File Name):	Review of Policy on Issuing Public Service Vehicle Licences and Badges Following a Driving Disqualification of a Public Service Vehicle Driver	Date of Decision Summary:	15 September 2010
Decision Summary Author:	Head of DVS & Inspector of Motor Traffic	Decision Summary: Public or Exempt? (State clauses from Code of Practice booklet)	Public
Type of Report: Oral or Written?	Written	Person Giving Oral Report:	N/A
Written Report Title (File Name):	Review of Policy on Issuing Public Service Vehicle Licences and Badges Following a Driving Disqualification of a Public Service Vehicle Driver	Date of Written Report:	15 September 2010
Written Report Author:	Senior Traffic Officer	Written Report : Public or Exempt? (State clauses from Code of Practice booklet)	Public
Subject: Review of Policy on Issuing Public Service Vehicle Licences and Badges Following a Driving Disqualification of a Public Service Vehicle Driver			
Decision(s): The Assistant Minister under his delegated authority agreed to adopt a formal policy for issuing Public Service Vehicle licences and badges following driving disqualifications for Public Service Vehicle drivers.			
Reason(s) for Decision: To formalise the process on issuing licences and badges to Public Service Vehicle drivers following any driving disqualification.			
Resource Implications: None			
Action required: Head of Driver and Vehicle Standards to implement the policy.			
Signature:		Position:	
Date Signed:		Date of Decision (If different from Date Signed)	



## TRANSPORT AND TECHNICAL SERVICES DEPARTMENT

### REVIEW OF POLICY ON ISSUING PUBLIC SERVICE VEHICLE LICENCES AND BADGES FOLLOWING A DRIVING DISQUALIFICATION OF A PUBLIC SERVICE VEHICLE DRIVER

#### **Purpose of the Report**

To obtain the agreement of the Minister for Transport and Technical Services to a policy for issuing a Public Service Vehicle licence and driver's badge to a Public Service Vehicle badge holder following the end of his/her domestic driving ban.

#### **Background**

On 15 July 2010 a Public Service Vehicle licence holder (Driver A) was found guilty in the Magistrate's Court of driving without due care and attention and fined £650, disqualified from driving for two months and ordered to retake a driving test. As such it was considered that the person was no longer able to provide an efficient taxicab service nor continue to hold a Public Service Vehicle badge or licence. Subsequently, in accordance with delegated authorities, Driver A's Public Service Vehicle licence and driver's badge were suspended.

#### **Discussion**

Article 10(1) of the Motor Traffic (Jersey) Law 1935 (MTL), as amended, allows the Minister to revoke or suspend a PSV licence when a person is considered no longer "fit and proper" to operate the public service. Similarly, Article 30(1) of the MTL allows the Minister to suspend or revoke the authority a badge gives a person to drive a Public Service Vehicle.

In previous instances where a Public Service Vehicle driver has been disqualified by the court from driving the driver has, on completion of the disqualification, successfully applied to have his/her licence and badge returned, depending on the seriousness of the offence and providing the offence did not occur whilst they were carrying out the duties of a Public Service Vehicle driver.

Two such instances are recorded.

Driver 1 was found guilty of driving under the influence of alcohol. At the time of the offence he was not working as a taxi driver. The driver's PSV licence and badge were suspended. Following the return of his domestic driving licence he was granted a badge and licence.

Driver 2 was found guilty of driving under the influence of alcohol. At the time of the offence he was actively working as a taxi driver. The driver's PSV licence was revoked and his PSV badge suspended. Following the return of his domestic driving licence Driver 2 applied for the return of his Public Service Vehicle licence and badge. The then Inspector of Motor Traffic granted the driver a badge but refused to grant a Public Service Vehicle licence. Driver 2 appealed to the Home Affairs Committee against the decision of the Inspector of Motor Traffic not to grant a controlled taxicab licence/plate. The Committee supported the Inspector and refused to grant the

driver a PSV taxicab licence. The Committee agreed that a clear policy should be developed for use in the future should similar cases arise. It would seem this was not done at the time.

Driver A is the first Public Service Vehicle licence holder to be disqualified from driving by the courts since that Home Affairs Committee decision of 24 November 2005.

### **Considerations**

To be a holder of both a Public Service Vehicle driver's badge and a Public Service Vehicle licence a person has to be "fit and proper". A person requires a badge to drive a taxi. He/she does not need to be the holder of the licence; he/she can be employed by a licence holder.

It is possible, as in the case of Driver 2, for a badge to be returned following the end of a driving disqualification but not a Public Service Vehicle licence permitting the operation of a taxicab service. It could be considered ambiguous that a person is judged to be fit and proper to be the holder of a badge but not fit and proper to be the holder of a Public Service Vehicle licence.

The relevant legislation appears to provide guidance that clarifies matters.

Article 29(2) of the MTL provides that the Inspector shall not issue a badge to drive a Public Service Vehicle unless satisfied that the applicant –

“(a) has attained the age of 21 years;

(b) is fit (both as to health and as to character) to drive Public Service Vehicle s of the specified type;

(c) is capable of safely driving Public Service Vehicle s of the specified type; and

(d) has an adequate knowledge of Jersey.”

Article 30(1) of the MTL provides that the Minister can revoke or suspend “the authority the badge gives the person to drive a Public Service Vehicle if the Minister is satisfied that, by reason of the person's conduct, or a physical or mental disability, the person is, either permanently or for the time being, not a fit person to drive a Public Service Vehicle ”.

Article 9(1), (2) and (3) of the MTL provide that the Minister shall grant a PSV licence if satisfied –

“(a) that the applicant is the owner of the vehicle;

(b) that the applicant is a fit and proper person to operate the public service to be provided by the vehicle;

(c) that an appropriate certificate of fitness is in force in respect of the vehicle; and

(d) that the grant of the licence would not be contrary to paragraph (6).

(2) The Minister may grant a Public Service Vehicle licence unconditionally or subject to conditions, which shall be set out in the licence.



(3) The conditions shall be such, as in the Minister’s opinion, are necessary or desirable to ensure the proper operation of the vehicle and the public service to be provided by the vehicle.”

Article 10(1) of the MTL provides that the Minister may revoke or suspend a PSV licence, “if it appears to the Minister –

(a) that its holder is no longer a fit and proper person to operate the public service provided by the vehicle having regard to the holder’s conduct, whether in respect of the provision of that public service or otherwise, the manner in which the vehicle has been used or operated or the manner in which the public service has been provided (or has failed to be provided); or

(b) that the vehicle to which the licence relates has been used or operated in contravention of a condition set out in the licence.”

The conduct of the person is important in both, however, a badge should not be issued unless criteria are met. Prior to a badge being awarded, a satisfactory police check is carried out, the applicant is interviewed, passes a knowledge test and passes a driving test. If a badge holder is the subject of a driving disqualification, he/she can continue to meet the criteria for issuing a badge. If, however, there is a second disqualification or the offence carries a significant disqualification period, it is unlikely the person would have been issued a badge based on the police check.

The Minister is expected to grant a PSV licence, subject to conditions, as long as the applicant satisfies certain criteria. The process to offer a plate involves the applicant building up a reliable reputation for providing a satisfactory level of service over a number of years such that he/she can be relied upon by the Minister to meet the conditions of licence, provide a satisfactory taxicab service as an owner/driver and assist the Minister in ensuring an adequate cab service. If the licence holder is the subject of a driving disqualification while operating the taxicab service, it is appropriate that an assessment is made on whether the licence holder compromised his/her reputation and can continue to be considered reliable and trusted to provide a satisfactory cab service once the disqualification is finished. The assessment should take into account the seriousness of the offence, whether passengers were being carried whose safety was compromised, whether any conditions of licence were breached and the manner in which the vehicle was being used and the service provided.

The proposed policy is set out in the table below.

	Disqualification period	Initial decision	Decision on application
Badge	Up to 3 years	Suspend	Issue badge
Badge	3 years or more or second disqualification	Revoke	Follow standard procedure for first application.
Licence	Less than one year	Suspend	Subject to assessment
Licence	One year or more or second disqualification	Revoke	Refuse licence

There is provision in the MTL for the applicant to appeal to the Royal Court against the Minister’s decision.

**Recommendation**

Public Service Vehicle licence holders and/or badge holders disqualified from driving should apply for the issue of a PSV badge and the grant of a PSV licence on return of their domestic driving licence. The decision to issue a badge and a licence should be made on the basis of the table above.

Drivers given a long disqualification period or who have been given a second disqualification should not be issued with a badge until they can satisfy the Minister that they are unlikely to re-offend. This should be a period of at least three years, when their domestic driving licence is endorsement free. If a badge is issued, they can apply to have their name added to the taxicab plate waiting list.

Those drivers who are given a disqualification of less than one year and apply for the grant of a licence, will be subject to an assessment that takes into account whether the offence took place while operating the taxicab licence, the seriousness of the offence, whether passengers' safety was compromised, any conditions of licence were breached and the manner in which the vehicle was being used and the service provided.

If the policy is adopted Driver A, on completion of the driving disqualification, the suspension would be lifted on the driver's badge. An assessment, including an interview, will be carried out to determine whether a Public Service Vehicle licence will be granted.

Written by: Senior Traffic Officer

Approved by: Acting Director of Transport.

## **2.6 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING ENERGY EFFICIENCY GRANTS:**

### **Question**

Will the Minister inform the Assembly whether the Energy Efficiency Grants Scheme administered by the Planning and Environment Department, which has carried out a significant number of improvement works to privately owned properties funded by approximately £4 million from taxpayers, complies fully with the requirements of financial regulation policies issued under legislation governing public finances in Jersey and, in particular, whether there is adequate disclosure of works and whether arrangements need to be in place for identifying the enhanced value of such properties as a result of these improvements works, securing the public's interest in this enhanced value and ensuring its ultimate recovery to public funds in the event of onward sale of these properties, and if not, what action, if any, will he be taking to ensure that the scheme is revised to ensure that such arrangements are in place in the future?

### **Answer**

The delivery of the Energy Efficiency Grants Scheme is the remit of the Planning and Environment Minister and all questions relating to its detailed operation and the policies it operates within should be directed to that Minister.

It is for the accounting officer of a department to satisfy him or herself that the activities of the Department comply with relevant legislation, to include financial directions issued by the Treasury under the Public Finances (Jersey) Law 2005.

The Minister for Treasury and Resources can report that the service has been subject to a recent Internal Audit report initiated by the Environment department as part of a wider review of grants across the States. The Minister understands that the results have already been shared confidentially with the Environment Scrutiny Panel. The purpose of Internal Audit is to assist management. As such it is not appropriate for the Minister for Treasury and Resources to disclose the contents of an audit report.

**2.7 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE ENVIRONMENTAL IMPACT OF THE J.E.C. CABLE LINK:**

**Question**

Has the Environment Department been consulted on whether the JEC will be using lubricant to assist drawing their new French link cables through the conduit they have laid and, if so, can he assure members that this lubricant is biodegradable and will not adversely affect wells or boreholes if it should seep into the ground?

**Answer**

The Environment Department has been widely consulted on the Normandie 3 Submarine Cable project but not specifically on the type of lubricant used to facilitate the pull-through of the power cables through the ducts. The assessment of its use has been completed by Jersey Electricity and its contractor in accordance with its own Health, Safety and Environmental Policy.

The lubricant is Techlube Multi Cable Lubricant (product code: 10698A). It is used worldwide by many companies for such purposes and is water based biodegradable and non-toxic with very low concentrations of lubricating oil and gelling agents. Very small volumes of the lubricant are used. Even with the small volumes in use, almost all of it is held within the duct (which is a closed pipe) or contained at the entrance or exit of the duct.

Under the European Union REACH and other applicable Directives the lubricant is not classified as hazardous and does not adversely affect the water table.

**2.8 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING PARISH RATES:**

**Question**

Further to the answer given to my question on 17th June 2014, would the Chairman advise whether parish rates are raised mainly to cover services required by properties and, if so, would he confirm that unoccupied properties have a far less cost to the parish than occupied ones?

Would he explain why the Parishes do not differentiate between occupied and non-occupied properties?

**Answer**

No; rates are not raised mainly to cover services required by properties.

Article 15(1) of the Rates (Jersey) Law 2005 (“the 2005 Law”) provides that:

“Each parish shall levy for each rateable year a parish rate consisting of the foncier and the occupier’s rate, the proceeds of which shall ... be applied for the payment of the general expenses of the parish ...”

The parish rates therefore cover the general expenses of the parish.

As explained in the answer given to the question on 17th June 2014, the definitions of “owner” and “occupier” in the 2005 Law mean that there is an “occupier” for all property so far as the Rates (Jersey) Law 2005 is concerned. Therefore the parishes do not differentiate between occupied and non-occupied properties.

## **2.9 DEPUTY J.A. MARTIN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE SITE FOR THE NEW POLICE HEADQUARTERS:**

### **Question**

Can the Minister set out the Construction and Environmental Management Plan (CEMP) required for large builds in constrained sites in respect of the new Police Headquarters at the Green Street car park site?

Would the Minister advise whether there will be any access through Green Street Cemetery to the new Police Headquarters?

Would he confirm the commencement date for the works on site?

### **Answer**

In compliance with Condition 24 of the Planning permit, the tender documents recently issued to local contractors require a Construction Environmental Management Plan to be submitted and approved by the Minister for Planning and Environment prior to commencement of the Police Headquarters development. This plan must be implemented in full and any variations agreed in writing by the Minister for Planning and Environment prior to such work commencing.

This plan will include a programme of mitigation measures to minimise any adverse effects of the scheme based on guidance issued by States of Jersey Environmental Health. This includes, but is not limited to:

- a) A demonstration of compliance with best practice in relation to noise from demolition and construction activities, including specified hours of working.
- b) Control of vibration from demolition/construction activities.
- c) A demonstration of best practice in the control of dust and emissions from construction and demolition.
- d) Communications processes for neighbours and details of complaints procedure, including office hours and out of hours contact numbers;
- e) Details of any proposed crushing/sorting of waste material on site.

In addition, other specific Planning permit conditions include complying with Codes of Practice relating to Noise, vibration and dust (Condition 6) and providing a scheme for the parking of vehicles of site personnel, operatives and visitors; the loading and unloading of plant and materials, and the storage of plant and materials used for the development (Condition 8).

In seeking to minimise disruption further, other requirements have been included within the tender documentation such as ‘Considerate Constructors’ registration, specified working hours, parking, approval of site set up and waste management. These are technical requirements which will be enforced by the Design Team on Property Holdings’ behalf with some aspects requiring approval by Planning and Environment or Transport and Technical Services.

The contractor will not be able to access the site through Green Street cemetery, which will be hoarded off from the site during construction. Whilst there will be no direct access from the cemetery to the Police HQ when the scheme has been completed, the existing pedestrian access route from the cemetery to La Route du Fort will be maintained.

It is currently anticipated that tenders will have been received and evaluated before the end of August and that preliminary works on site will begin in the early part of September.

## **2.10 DEPUTY J.A.N. LE FONDRÉ OF ST. LAWRENCE OF THE CHIEF MINISTER REGARDING RESOURCE SUPPORT FOR THE DEAN OF JERSEY:**

### **Question**

In view of the passing of interim episcopal oversight from Winchester to Dover announced by the Dean of Jersey in the Assembly on 13th May 2014, and the recognition by the Deanery Synod on 3rd June 2014 of the additional administrative burdens laid upon the Dean in consequence, would the Chief Minister consider investigating the resources available to the Office of the Dean of Jersey and consider whether some assistance should be provided to support the Dean in the performance of his official duties?

### **Answer**

I am content to consider the resources available to the Office of the Dean of Jersey and whether some assistance should be provided to support the Dean in his official duties.

Although the Office of the Dean of Jersey is a non-Ministerial States funded body, and no Minister is responsible to the States Assembly for its administration or funding, given the unique circumstances, I am content to consider this matter, consult with the Deanery Synod and make recommendations.

## **3. Oral Questions**

### **3.1 Deputy S. Power of St. Brelade of the Chief Minister regarding the levels of births over deaths in Jersey since 2010:**

I rise with a slight degree of trepidation having just voted against Deputy Tadier’s proposition. Given that R.77, which is the births, deaths, marriages and civil partnerships statistics for 2013, shows the excess of births over deaths in Jersey has been 269, 366, 361 and 298 for the past 4 years, 2010 through to 2013, showing a potential growth in population in the 4 years of 1,294

persons before net inward migration, does the Minister intend to factor in and use this information in controlling population and migration on the aspirational limit set and, if so, how?

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

Could I ask my Assistant Minister to act as rapporteur?

**Senator P.F. Routier (Assistant Chief Minister - rapporteur):**

The Interim Population Policy, which runs until the end of 2015, supports a planning assumption of 325 individuals per year. It was developed using the population model produced by the Statistics Unit, which includes trends in births and deaths as well as figures for inward migration. This Assembly's longer-term population policies should be based on the same sound statistical analysis. In this way, this Assembly can plan for changes in our overall population, whether through births, deaths or immigration.

**3.1.1 Deputy S. Power:**

If I might be allowed to respond to that: the birth rate is staying at a much higher level than has been for some time. We have had previous years where it has been less than 200 per year and in the halcyon days of 1997 and 1998 it did exceed 300. Is the Minister taking into account the spike in birth rates and has he discussed this in any population modelling that will need to be done with the Statistics Office to arrive at a proper and long-term population policy for the foreseeable future?

**Senator P.F. Routier:**

I am assured by the Statistics Unit that they are monitoring the excess of births over deaths and they are including that within their forecasts for the future.

**3.1.2 Deputy G.P. Southern of St. Helier:**

When will the Assistant Minister be coming to this House with an estimate of what our actual population is now and where they have gone in the workforce?

**Senator P.F. Routier:**

As the Deputy is aware, the Statistics Unit is an independent organisation which will be publishing their figures when they are ready. We know that they are working on them to bring them forward as soon as possible.

**Deputy G.P. Southern:**

That was not an answer. It was: "As soon as possible." Is that the best the Assistant Minister can do?

**Senator P.F. Routier:**

At the present time, yes.

**3.1.3 Deputy J.A. Martin of St. Helier:**

In his supplementary, the Assistant Minister said: "We are using this figure for planning assumptions." Can he tell me which figure and what are we planning for? Is every department involved in it?

**Senator P.F. Routier:**

During the Interim Population Policy debate, it was very clear that the assumption of 325 - which is what the Housing Advisory and Work Group are working to for new licences - does include the births and deaths figures within the ... well, that is what the Statistics Unit is including within their assumptions.

### **3.1.4 Deputy R.G. Le Hérissier of St. Saviour:**

Can the Assistant Minister confirm that in these assumptions the predicted upsurge in construction activity is not going to affect the figures; that he is going to handle it very happily within the 325 limit?

### **Senator P.F. Routier:**

I am not quite sure how that fits in with the original question, but certainly we are very conscious that the construction industry will be looking to have capacity to cope with the upsurge in building which is going to happen in the Island and we will be working with them and with other industries to ensure that we do try and meet our target of 325.

### **3.1.5 Deputy S. Power:**

Would the Minister accept that if he factors-in an increase of 150 households per annum plus the natural excess of births over deaths that within 10 years the population of the Island will be between 115,000 and 120,000?

### **Senator P.F. Routier:**

I would need to take advice from the Statistics Unit to verify those figures, but obviously there will be an increase in our population during that time.

### **3.2 Deputy M. Tadier of the Minister for Treasury and Resources regarding the current balance and recent uses of the Criminal Offences Confiscation Fund:**

Further to the response given in a written answer on 17th June this year, will the Minister advise Members of the current balance of the Criminal Offences Confiscation Fund and also advise Members how these funds have been used in the last 6 months, explaining who has received what and for what purposes?

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

Sir, without incurring your wrath, can I just ask; I am confused about the vote on questions. Members voted against 4 minutes per answer so what is the guidance that we are being given in terms of answering oral questions? I just do not understand where we stand.

### **The Deputy Bailiff:**

You are please to do what Standing Orders requires, which is to be as concise as possible in giving factual responses.

### **Senator P.F.C. Ozouf:**

How many minutes do we have per answer?

### **The Deputy Bailiff:**

Well, the usual rule has been 90 seconds for a Minister to answer.

### **Senator P.F.C. Ozouf:**

Thank you. The current balance of the C.O.C.F. (Criminal Offences Confiscation Fund) not paid out is £13.5 million and I have sent an email to all States Members with a comment dealing with all of the matters that have been spent from the Criminal Offences Confiscation Fund. Members had that on Saturday and the comment will be formally lodged during the course of the afternoon or by the earliest tomorrow.

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

Thank you. Nothing for the moment.

**3.2.1 Deputy J.A. Martin:**

From memory, the Minister when he sent round the figures said he had recently changed the ruling on how to withdraw money from this fund. Could the Minister inform the House exactly when and why?

**Senator P.F.C. Ozouf:**

Yes, very happy to do that. I wanted to strengthen the arrangements by requiring a Council of Ministers step, ensuring that any recommendations that I would be presented by the Treasury after having gone through the modalities of checking with the Attorney General that they fall within the purposes of the law, that I would not make that decision by myself but rather I would take it to the Council of Ministers. I also looked at the delegations that could be made under Treasury delegated arrangements and clarified them so that no possible situation could be where an official signed-off expenditure that I thought politically should be done so. So now the new arrangements are much stronger than they were previously.

**3.2.2 Deputy G.P. Southern:**

Does the Minister not accept that his use of this particular Fund to indirectly pay for Plémont, while it may be legal, stretches the bounds of what constitutes the outcomes of crime to a point of absurdity?

**The Deputy Bailiff:**

I will allow that question only because of the forthcoming debate, but we are not going to get into supplementary questions on a supplementary.

**Senator P.F.C. Ozouf:**

No, I do not think it is. I think it is perfectly correct for Deputy Southern to say one thing: indirectly taxpayers' money is going to fund Plémont. I think that is absolutely right to say that and any statement by the National Trust or otherwise is incorrect. It is a 2-stage process and it is the only process that the Treasury, upon advice, has been able to do. If building a police station does not fulfil the requirements of the use of the Fund, then I do not know what does, because clearly it does. Secondly, I am pleased to inform Members that the Attorney General has confirmed that it does fulfil the requirements of the Fund. Therefore, in the event of the States approving it, then I will be able to process the decision with Member certainty. So I hear the Member saying: "Shame." That is the reality of the way that this is. It is a taxpayer-funded decision and Members need to decide.

**The Deputy Bailiff:**

Deputy Martin, do you have a supplementary to the question rather than a supplementary on Plémont?

**3.2.3 Deputy J.A. Martin:**

Well, the supplementary is a supplementary which you did allow, and I know I have been away for the week, but did the Minister for Treasury and Resources just tell me we are building the police station at Plémont?

**The Deputy Bailiff:**

Deputy, if you have a question to put to the Minister for Treasury and Resources in relation to building the police station using the monies from the Criminal Offences Confiscation Fund, that is broadly a legitimate question.



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

Can I give notice that tomorrow I hope the Attorney General is here because I want to question him about his decision making?

**3.2.4 Deputy J.A. Martin:**

Then the question I asked before, the Minister said he has strengthened to allow the money to go out of the Fund to be made by the Council of Ministers, not just himself. Did he change the criteria of getting money out of this Fund? Because I just do think it is a very long stretch, the criteria.

**Senator P.F.C. Ozouf:**

On the contrary, the criteria have not changed. What I was concerned about well before even the opportunity for doing the 2-stage process by the police station and, therefore, being able to fund Plémont, I changed the rules for the C.O.C.F. well before any of that was discussed. The arrangements, what you can use the Fund for, is again not the Minister for Treasury and Resources' decision only. It has to be requested by a department and then cleared by the Attorney General's Office as to whether or not it is a legitimate use. I would have thought that Members would be pleased with the fact that I have put a further layer of controls so that the Minister for Treasury and Resources is not in a position of adjudicating over the appropriateness of the use of the funds that are legitimately for that so that it is clear and transparent and more eyes on the decision. It has been strengthened, not weakened, but none of the purpose of the funds have been changed, of course. That would be a matter for this Assembly under law.

**3.2.5 Connétable P.J. Rondel of St. John:**

Could the Minister for Treasury and Resources explain, since he is taking this decision - reference funding for Plémont - to the Council of Ministers, given a number of Ministers have shown their hand in favour of Plémont, can they now be in a position to sit and make judgment on whether the money should go or should not go? That seems rather absurd to myself.

**Senator P.F.C. Ozouf:**

It is going to be a matter for Members. The proposition asks 2 things. It asks whether or not the States approves the grant and then requests the Minister for Treasury and Resources to implement it. I would be criticised if we start the debate without telling Members how to do it. I can say to Members that the only way of funding it is through the route that has been proposed: reduction in the police budget and increase, therefore, to allow it. If Members do not like it, they will vote against it, but there is no other way that the Treasury can deliver on the amount of money in that period of time. We just cannot do it. Members would be surprised if we could find £3.5 million just like that.

**3.2.6 Deputy M. Tadier:**

The Minister has commented elsewhere that using the funds in such an unprecedented way would not create a precedent. Does he agree that if we proceed on this proposed course of action the Criminal Offences Confiscation Fund could be used for any ordinary spending of the States? Can he confirm that that has not been the case up until now, that this Fund is not and has not been used for ordinary spending of the States, of which the Police Department is?

[15:00]

**Senator P.F.C. Ozouf:**

I would not describe the new building of the police station as ordinary. It is capital. It is one-off. I think that Members have seen the list of grants that have been made by the C.O.C.F. and they are all absolutely legitimate for the purposes of this Fund. Perhaps it would have been in retrospect

better but we did not know when we set the police station budget that this would be the balance in the C.O.C.F. Now, the Fund can be used for the prescribed purposes, of which the detection and prevention of crime is a source. So perhaps it would have been a fair criticism to say that we should have thought of this earlier in order to fund the police station but, of course, we did not know that. No, it does not create a precedent: (a) because there is only a finite amount of money available in the Fund; and (b) the uses of the Fund are the uses that it can be used for, of which the police station building is one of them.

**Deputy M. Tadier:**

It does not cover the detection and protection of puffins, though, does it?

### **3.3 Deputy G.P. Southern of the Minister for Housing regarding the annual rent rises proposed by Andium Homes for October 2014:**

Will the Minister state what annual rent rise Andium Homes has under consideration for October 2014 and whether this conforms to his policy on rent rises of R.P.I. (Retail Price Index) plus 0.75 per cent? Will he state what effect, if any, this policy will have on the figures in the table on page 64 of R.15/2013 - States of Jersey Housing Transformation Programme: Full Business Case - and, if not, why not?

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

The rent policy approved by the States Assembly requires Andium Homes' rents be adjusted annually on 1st October by R.P.I. plus 0.75 per cent - I noticed when the Deputy read out his question he corrected his mistake because he had asked 1.75; it is actually 0.75 but I notice the Deputy corrected that - subject to the revised rental not exceeding 90 per cent of market equivalent. I can confirm that rent increases applied by Andium Homes will be in line with the rent policy approved by this Assembly and in accordance with their memorandum of understanding with the Minister for Treasury and Resources. The R.P.I. rate used for calculation will be the Quarter 2 R.P.I. figure published by the States of Jersey Statistics Unit in July and, therefore, Andium Homes is not able to determine the rental increase until this index is published. But if the R.P.I. figure is unchanged from the 1.7 per cent level as it was in quarter 1, the rent increase applied would be 2.45 per cent, which is lower than the projected 3.65 per cent in the report. This would result in lower rentals being received by Andium Homes and, therefore, lower income support costs for Social Security on the same basis of £77k. Increases in the annual return by the States are also linked to the same R.P.I. figure and the majority of the loss of income for Andium Homes will be offset by lower annual return payments.

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

For new tenancies, I have figures showing that the average for a one-bedroom flat is a 7 per cent rise and for a 3-bedroom house is 10 per cent. Will the Minister inform Members not only what the average rent charge is but the median and the range of rents to be charged on particular properties?

**Deputy A.K.F. Green:**

That is far too wide a question for me to have all those figures in my head, but I am quite happy to provide that information. What I will say, though, is that the rents are based on 90 per cent of market rate. New tenants coming into the need of social housing are quite unlikely to be paying the full rental rate. They will be supported by Social Security. I am quite happy to get my officers to work out those figures.

### **3.4 Deputy M.R. Higgins of the Minister for Home Affairs regarding the alleged failure of the States of Jersey Police to properly investigate a child protection case:**

Following information given to the Minister about the alleged failure of the States of Jersey Police to properly investigate video evidence contained on a USB stick of a sexual act and the inaccurate report to the Multi-Agency Child Protection body and subsequently to the courts, will the Minister advise what he has discovered and state what steps have been taken to correct the records and notify all the parties concerned?

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

The question contains allegations of failure on behalf of the police which are not accepted. What I have discovered is this. The case which the Deputy refers was first reported to the States of Jersey Police in December 2011. As is standard practice now with all safeguarding or child protection referrals, this was formally considered and assessed on a multi-agency basis at a strategy meeting. The case was properly investigated and the evidence was then assessed by a Crown Advocate on behalf of the police in order to determine whether or not on the facts alleged there was a criminal offence shown. The advice from the Crown Advocate was that there was no criminal offence shown on the facts. Finally, the case and all the material, on information provided to me, was also assessed and dealt with through the Family Court.

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

Will the Minister state the information that was given to the child protection body? Did it state that there was nothing on the videotape, which is my understanding of what was put there? Is the Minister aware that the Data Protection Commissioner is also trying to ensure that the police change their records and advise the courts and everybody else that there was information on that tape which they failed to identify or recognise because they had not seen it all?

#### **Senator B.I. Le Marquand:**

That is not my understanding. My information is that the matter was properly investigated and the material contained on the tape, therefore, properly considered. That is my information.

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

Well, I think the Minister needs to go back and speak to the police force. This information, by the way, has been given to the Committee of Inquiry looking into child abuse and so on. Now, whether it constituted child abuse of the child, there were certainly child protection issues involved because of the proximity of the child to what was going on. I think if this is the quality of police investigations, he needs to go through and look at the records personally and see the videotape personally.

#### **The Deputy Bailiff:**

Is there a question?

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

Will the Minister go away and look at the evidence himself and see if he has been told the truth by his officers?

#### **Senator B.I. Le Marquand:**

No, of course I will not. That is not the role of a Minister. If I may say so, this is the most blatant attempt I have seen in 5 years in the States to interfere politically with a matter which is clearly an operational police matter. In my opinion, the Deputy should not be asking such questions. This is an operational police matter. I am not going to interfere in an operational police matter. It would be totally improper for me to do so. If the facts are as alleged by the Deputy inasmuch as I

understand them, then I would accept that there was a matter properly to be considered as a safeguarding issue, but that is quite a different matter as to whether or not there is a criminal matter disclosed.

### **3.5 Deputy S.Y. Mézec of St. Helier of the Solicitor General regarding the disclosure of information by the Viscount's Department in the bankruptcy case of the former Deputies Pitman:**

Given that the Viscount's Department has now stated that the media were provided with information in the bankruptcy case of the former Deputies Pitman on the condition that it was confidential and could not be broadcast or published, what action, if any, is the Viscount able to take as those conditions were broken?

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

A bankruptcy is a process that involves the Royal Court. If parties involved in an ongoing legal process are unable to resolve their differences, then it may be that the Royal Court will be invited to do so. Such matters are for the parties, possibly the court, but, with respect, this is not an appropriate subject for political debate in the States Assembly. I decline to make any further comment on the facts of a particular case.

#### **3.5.1 Deputy S.Y. Mézec:**

I am trying to keep my questions as far away from the facts of the case and simply use it to illustrate as an example. Would the Solicitor General consider the publication of personal information, including income tax details, to be a breach of Article 8 under the E.C.H.R. (European Convention on Human Rights) right to privacy and, if that is the case, what recourse would a wronged party have under Jersey law in that occasion?

#### **The Solicitor General:**

The reality of this question is I am being asked to comment on a particular case and I decline to do so.

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

Can I ask a point of order? If the question has been ruled in order, then surely an answer should be forthcoming to a question which is in order.

#### **The Deputy Bailiff:**

It is always open to a person who is the subject of the question to decline to answer. What consequences flow from that flow from that.

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

In fact, I wonder why the Solicitor General even bothers coming to the Assembly if he will not answer questions. However, can I ask him - and this is a general question, not about this particular case - can I ask what protocols or what documents there are that lay down the procedures on what should be done? If there are not any, when will they produce some?

#### **The Solicitor General:**

I do not understand the question. I do not know what protocols are being referred to or who was supposed to be producing them.

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

I will try and explain further. We have a case where data has been given out. What I would like to know is what rules are there from the Viscount's Office for giving out data, personal data or any data for that matter. What are the rules regarding the disclosure of data? Are they written down? Are they available for everybody to see? If so, where are they?

**The Solicitor General:**

The question just began: "We have a case where information was given out" so again I am just being asked about a particular case.

**Deputy M.R. Higgins:**

With respect, I am asking a general question. I would like to know has the Viscount's Office published anything and where is it? Because if it does not exist, you need to know that you have got it wrong.

**The Deputy Bailiff:**

I think that last part was unnecessary, Deputy, if I may say so, but the question was a general one, Solicitor General. As it is not your department you may not know the answer to it, but the question was a general one: what protocols, if any, are available through the Viscount's Department for the publication of data?

**The Solicitor General:**

I do not know off the top of my head. All I would say is the Viscount is, of course, accountable to the Royal Court.

**3.5.3 Deputy M. Tadier:**

Again, as a general principle, could the Solicitor General answer why one would give out information that is confidential to a third party, in this case ... perhaps a media entity, on the condition that they cannot use that for broadcasting and disseminating?

**The Deputy Bailiff:**

I am not sure, Deputy, in the light of the previous answers that you can say it is a general question when you say in this case the media.

**Deputy M. Tadier:**

Let us try again, shall we? Is it normal practice for confidential information to be given to third parties if they agree not to use it?

**The Solicitor General:**

That all depends on the facts of the case.

**3.5.4 Deputy S.Y. Mézec:**

I have the wording from my first supplementary question written in front of me and it did not specifically refer to any case. I think the Solicitor General decided he was not going to answer it before I asked it. So let us talk hypothetically. If there were a situation where the Viscount gave the media access to details, explaining it was public interest disclosure, and then one month later wrote and said: "Actually, the information provided was meant to be confidential, not for public disclosure" what recourse do members of the public have when they are messed about by States Departments like this?

**The Deputy Bailiff:**

Standing Orders prohibit the asking of hypothetical questions. We come to question 6, which Deputy Mézec will ask of the Minister for Health and Social Services. Deputy Mézec?

**Deputy M.R. Higgins:**

Sorry, I was a bit distracted by thinking about the last one.

**The Deputy Bailiff:**

Sorry, Deputy Higgins, it is not you. It is number 6. Deputy Mézec is going to ask a question of the Minister for Health and Social Services.

**Deputy M.R. Higgins:**

My apologies, I really was carried away. [Laughter]

### **3.6 Deputy S.Y. Mézec of the Minister for Health and Social Services regarding the implementation of the Scrutiny Report into the Child and Adolescent Mental Health Service:**

Let us see how we do with this one. Following the publication of the Scrutiny Report into the Child and Adolescent Mental Health Service, what action, if any, will the Minister be taking to implement these recommendations?

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

Members should have received this morning a letter from me in which I have outlined my actions and, importantly, set out a clear vision on the way forward. I will be responding formally in more detail to the Health, Social Security and Housing Scrutiny Panel before the last sitting of the Assembly. Meanwhile, I am happy to outline my initial response to this Assembly today. Firstly, I want to thank the front line staff at C.A.M.H.S. (Child and Adolescent Mental Health Service). I and my Ministerial team met with them last week and I was incredibly impressed by their hard work, professionalism and dedication in supporting young people and their families. I accept and they accept that the service needs to change and I know that C.A.M.H.S. front line staff are up to this challenge. Some of my key early commitments and actions I will ensure are taken forwards as a matter of urgency. They will cover leadership, governance, vision and communications. In addition, I intend to accelerate the development of an adolescent unit on Robin Ward. I have already increased the capacity in C.A.M.H.S. to respond to the unprecedented increase in demand and I am in the process of strengthening both management and clinical input for the specialist C.A.M.H.S. service as a whole. I am also strengthening the leadership across children's services. As my department takes this ambitious programme forward, my officers will ensure that relevant States Departments, in particular Education, voluntary and community sector organisations, young people and their families and carers are fully involved. We know it is vitally important that their voices are heard.

[15:15]

It is also critical to the success of children's services that other departments and partner agencies are involved and support our efforts because nothing is more important than protecting and caring for vulnerable children. Finally, I would like to thank the Scrutiny Panel for providing comprehensive support and I hope this Assembly will acknowledge my department's and my commitment to respond effectively to its findings and support me and my department in taking these things forward.

#### **3.6.1 Deputy S.Y. Mézec:**

One of the criticisms in the Scrutiny Report is the lack of action that was taken after the 2006 Young Minds charity recommendations, most of which have not been implemented. How can the Minister assure us that this report will not end up on the scrap heap like the last one and has she pre-emptively asked the Minister for Treasury and Resources for more funds to help her accomplish some of these changes that young people in Jersey desperately need?

**The Deputy of Trinity:**

Documentary evidence provided to the Scrutiny Panel review shows that of the 17 recommendations made to the Young Minds report 15 have been acted upon following publication. It is recognised that the Young Minds report was published in 2006 and there has been significant change in this area since. The climate is not the same: cyber-bullying, increased pressure. It is a fast-moving world and we need to react quickly to it. My department has been in contact with the States Treasury to look at funding, especially for Robin Ward, but it is not only about resources, it is having a clearer vision and a positive way forward.

**3.6.2 Deputy M.R. Higgins:**

One of the main criticisms in the report was the lack of any assistance to families after 9.00 a.m. until 5.00 p.m. Will the Minister tell me has she brought in measures now to correct that and is there now a service for people outside normal hours so they can get the help that they need? If not, when?

**The Deputy of Trinity:**

There was a clear pathway but that pathway even needs to be clearer. If someone is accessing service after 5.00 p.m., if it is an acute episode it needs to be done in a proper way through A. and E. (Accident and Emergency) and into the Robin Ward if that is appropriate. That is one of the actions that we are going to look at very shortly. Regarding timescale, I cannot give the Member the exact timescale for that.

**3.6.3 Deputy J.A. Hilton of St. Helier:**

In the letter sent to States Members this morning, the Minister for Health and Social Services alluded to a fundamental review for the independent mental health issues and also in her penultimate paragraph in that letter that that review will be undertaken. Could the Minister tell Members when that piece of work is likely to commence?

**The Deputy of Trinity:**

Members would appreciate that a lot has happened in the 2 weeks. Things I have put in place have been very firm and swift action. Regarding the review, it will take longer but, as the experts' action plan said, within 3 months. When I give the detailed report back to Scrutiny within the next couple of weeks that will be detailed.

**3.6.4 Deputy R.G. Le Hérissier:**

Notwithstanding the Minister's welcome memo, can the Minister explain to the House further why her recommendation involves that there be an expert running or monitoring the whole of the Children's Service as opposed to C.A.M.H.S., which was the focus of the Scrutiny?

**The Deputy of Trinity:**

Because under the Children's Service we need a wide range because it is a multi-agency response. That is the most important thing that I need to get over. It is not just C.A.M.H.S., it is not just Children's Services. C.A.M.H.S. is a specialist mental health service and we need to involve Education, all Children's Services, Home Affairs, the voluntary sector, and schools, too, have a big part to play with this.

### **3.6.5 Deputy R.G. Le Hérisier:**

Why then have all the previous reports come to naught?

#### **The Deputy of Trinity:**

I totally disagree with that. As I said about Young Minds, 15 of the 17 recommendations have been in place. With the Williamson Review, there have been firm recommendations which have been put in place. There is strengthening. Children's services - C.A.M.H.S. services - is a very complicated issue and we must address these issues as highlighted in the scrutiny report.

#### **The Deputy Bailiff:**

Deputy, although that was a factual answer being sought, it was a point-scoring question and I was hoping we were going to avoid those.

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

One of the findings states that the majority of the recommendations from the Young Minds report in 2006, already 8 years ago, have not been fully implemented. Does the Minister think that this is acceptable?

#### **The Deputy of Trinity:**

I just thought I had already answered that. I can say it again: 17 recommendations made in the Young Minds report; 15 have been acted on following publication of the report. Young Minds was back in 2006, so how many years ago? Eight years ago. The climate has changed. We know that and we must react quickly to the effects of cyber-bullying, bullying, pressure that these young people are under.

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

Is the Minister saying that the finding is wrong then? Because it clearly states that the majority of the recommendations had not been implemented. Is that not correct?

#### **The Deputy of Trinity:**

I shall repeat what I just said. I cannot say it any more than that ...

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

I do not wish her to repeat. I just wish her to answer the question.

#### **The Deputy Bailiff:**

I think she did answer the question, Deputy. She does not want to add anything further. We are going to move on. This is not a debate about the C.A.M.H.S. report today. It is Question Time.

### **3.6.8 Deputy S.Y. Mézec:**

The Minister mentioned expanding Robin Ward as one potential thing that can be done. I would like her to just say exactly how that is going to work. Is it going to be Health Department staff down there? Is it going to be C.A.M.H.S. staff down there? Could she just give us a bit of an idea of exactly what that means?

#### **The Deputy of Trinity:**

Within Robin Ward we have already identified that we need a secure unit. As in most of our hospitals in the States, some of it is just out of date full stop. We have identified that. We recognise the problems. It will be a specialist unit within Robin Ward and, yes, if it needs to be staffed by specialised paediatric mental health staff, then that is something that is in the Business Plan and we will try and bring it forward as swiftly as we can.



**Senator P.F.C. Ozouf:**

May I raise a point of order? In the earlier question, Deputy Higgins said: “I wonder why he bothers to turn up” in relation to the Solicitor General. I have read Standing Orders 104 and I believe that that statement would be contrary to Standing Order 104(2)(b), insulting language or improper motives. I am surprised you did not rule it out of order and I just wondered why the Solicitor General should be subjected to such an inappropriate comment that is clearly in breach of Standing Orders, in my view.

**The Deputy Bailiff:**

Senator, I am grateful for that point being raised. In my view, you are correct that it was out of order. I did say to Deputy Higgins it was unnecessary. I probably should have ruled it out of order, but I am afraid it comes from a lifetime of experience as Attorney General and Deputy Bailiff that the Crown appointments unfortunately have to put up with things being said in this Assembly which frequently should not be said.

**Senator P.F.C. Ozouf:**

Then if it is in breach of Standing Orders, would you ask the Deputy to withdraw the statement that he made? I would like an expression of the rest of the Assembly that we do not agree with that statement being made. **[Approbation]**

**The Deputy Bailiff:**

I am grateful. I do think it is in breach of Standing Orders. Deputy, would you be prepared to withdraw it?

**Deputy M.R. Higgins:**

I am quite prepared to withdraw it and thank the new Speaker of the House for bringing it up.

**Senator P.F.C. Ozouf:**

That was imposing improper motives.

**The Deputy Bailiff:**

I think it was possibly doing that if you take a very firm view of it. I am not going to take that view because we are under time pressure. We are going to keep moving.

**3.7 Deputy M.R. Higgins of the Minister for Health and Social Services regarding action taken in relation to a child protection matter:**

Further to the Minister’s meeting with former Deputy Pitman and his constituent and her response to my question on 17th June 2014, will she advise what action, if any, she took regarding the child protection matter discussed and whether she agrees with the view of the head of the children’s service that a young child observing a sexual act at - and my question originally had - very, very close proximity does not represent a child protection issue?

**The Deputy of Trinity (The Minister for Health and Social Services):**

Again, I am not at liberty to discuss individual cases and it is entirely wrong for the Deputy to take out of context the comments of one individual in response to a multi-agency inquiry. I do take my responsibilities, as do my staff, with regard to child protection very seriously and, like the Deputy, seek the guidance and independence of a safeguarding chair in these matters. The matter had been reviewed independently by the former and present independent Safeguarding Chair. Both took

advice from a variety of agencies, including the States of Jersey Police and Probation, to come to their decision.

**3.7.1 Deputy M.R. Higgins:**

The Minister is aware that a report was made to the Multi-Agency Child Protection Agency without the full facts and, therefore, any decisions they make can only be as good as the information they have been provided. They were not told of the content of the tape fully and the Data Protection Commissioner is trying to get your department to change its records because they are inaccurate. Is that not correct? Will you confirm that the Data Protection Commissioner is trying to get the records corrected?

**The Deputy of Trinity:**

I will not confirm that. As said by the Minister for Home Affairs, that is operational. If the Deputy believes he has any new evidence in the case, he should report it to the police, M.A.S.H. (Multi-Agency Safeguarding Hub) or to the independent Chair of the Safeguarding Panel. I understand that the Deputy was supposed to meet the Safeguarding Chair in January but he failed to turn up. If he was to arrange another meeting, I am sure that still can happen.

**Deputy M.R. Higgins:**

Sorry, I must give a point of information here. That meeting was to do with a totally different case.

**The Deputy Bailiff:**

It may well have been, but the answer you have been given is that this is an operational matter and if you have further information that ought to be disclosed you should disclose it to the police.

**3.7.2 Deputy J.G. Reed of St. Ouen:**

I would just like to ask the Minister whether she could confirm that indeed the head of Children's Services has ever expressed a view that a young child observing a sexual act at close proximity does not represent a child protection issue.

**The Deputy of Trinity:**

As I said in my original question, it could be taken out of context. It is a multi-agency approach to these very serious child protection issues, and that is the important thing. It is a multi-agency response.

**3.7.3 Deputy M. Tadier:**

If the Minister is saying it could be taken out of context, the statement has to be said first in order for it to be taken out of context. Therefore, is she conceding that the statement was said but that it is perhaps being taken out of context?

**The Deputy of Trinity:**

No, I am not saying that. What I am saying is any evidence that comes is a multi-agency response. It is not just down to one person, one department. It goes through the multi-agency approach and that includes being looked at by the previous Chair of the Jersey Child Protection Committee and the present independent Chair of the Safeguarding Panel.

**3.7.4 Deputy G.P. Southern:**

The question must be asked then: what did the head of Children's Services state about this particular act?

**The Deputy of Trinity:**

As I have said, this is operational and I have no intention of responding to that.

**Deputy M. Tadier:**

A point of business. Is it satisfactory to give an answer saying something is operational? Clearly, with the police that is a different matter. The Minister cannot interfere. But when it is a matter about something in her own remit from any other department, is it satisfactory to say it is operational; therefore, I cannot give an answer?

**The Deputy Bailiff:**

That is the Minister's answer. That is the answer she has given. It is a political matter as to what steps Members take after that. This is not a matter for the Chair. It is perfectly appropriate for a Minister to choose how he or she wishes to answer any question that has been put.

**3.7.5 Deputy M.R. Higgins:**

The Minister has obviously tried to evade and virtually we know that obviously the statement was made. Will she admit that ... has your department been contacted by the Data Protection Commissioner on this issue about your inaccurate records and records that have been passed on to the multi-agency child protection agency? Yes or no?

**The Deputy of Trinity:**

As I said, I cannot discuss individual cases. This is down to operation of an individual case and it is totally inappropriate for me to make any comment about that.

**The Deputy Bailiff:**

We have gone as far as we are going to go, therefore, on that question.

**3.8 Deputy G.P. Southern of the Minister for Social Security regarding a full review of the Income Support scheme:**

Will the Minister state why there has been no full review on the income support scheme despite undertakings to that effect and does his department have any plans to conduct such a review and, if not, why not?

[15:30]

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

During my time as Minister for Social Security a wide range of operational and policy areas relating to income support have been reviewed and changes implemented. These include: a review of residency requirements to bring income support in line with the new Control of Housing and Work Law and requiring both adults in a household to pass a residency test; a review of the support provided to private sector tenants and changes to the support provided to social sector tenants in line with the Housing Transformation Project; a review of the operation of sanctions as applied to job seekers and people giving up work, leading to substantial changes in this area; a review of customer communications leading to a revised application form and award letter and changes to the income support website following extensive staff training last year in lean management, methods and models of customer service. Officers have initiated reviews of operational areas of income support and implemented significant improvements in customer service in parallel with a customer service review. **[Laughter]** The design of the income support customer area has been reviewed and an improved layout has been implemented. Alongside the introduction of the long-term care scheme, the support provided through the Income Support Law for long-term care costs has been completely reviewed and overhauled. I have fulfilled my commitment to publish detailed

information on income support expenditure on an annual basis. I have also updated and reissued and reviewed detailed policy guidelines on the application of the Income Support Law and Regulations. Given the wide range of reviews already undertaken and those in the pipeline, my department has no plans to carry out a separate full review of income support. [Approbation]

**3.8.1 Deputy G.P. Southern:**

My heart goes out to the poor Minister. No wonder he is retiring, he has been so overloaded. Nonetheless, there has been no overall review of the effectiveness of delivery of income support in the right places. Is it the fact that whereas the Minister looks and reviews the operation of income support to see where he can save money, he does not want to risk an overall review that might ask him to spend some more because it identifies a gap or a limited spend in areas of greatest need?

**Senator F. du H. Le Gresley:**

In a calmer response, the Deputy is aware that we are due to carry out a review on the introduction of a living wage in Jersey. This review will be co-ordinated with the Household Income Distribution Survey currently being conducted by the Statistics Unit. This survey will be completed in 2015 and will provide the basis for a review of income support benefit levels alongside the calculation of a local living wage.

**3.8.2 Deputy G.P. Southern:**

Will that review also include taxation - so the Tax Department - in order to co-ordinate the tax policy, wage policy and income support policies so they form an coherent whole because that has been an outstanding need for a number of years?

**Senator F. du H. Le Gresley:**

It is quite possible that that will happen.

**3.8.3 Deputy M. Tadier:**

Would the Minister consider that there is scope for an additional review relating to the housing component, especially the figure of how much taxpayers' money is given by his department each year to very wealthy landlords in the form of the housing component?

**Senator F. du H. Le Gresley:**

A review of income support assistance with rent levels was carried out in 2013, an independent review by Professor Michael Jones of the Cambridge Centre for Housing and Planning Research and, as far as I am aware, the department has no intention to carry out a review of the housing component in the near future.

**3.8.4 Deputy M. Tadier:**

Is the Minister, nonetheless, concerned that a very large sum of taxpayers' money ultimately finds itself in the back pocket of very wealthy landlords who, in some cases, might own hundreds of properties that they let to people on income support? Does he recommend that perhaps a future incumbent should work very closely with the Housing Department, or what is left of it, in order to try and resolve this issue for the future?

**Senator F. du H. Le Gresley:**

The Deputy, of course, was successful in bringing a proposition fairly recently that the Minister for Housing should investigate rent control. I supported that, as did the majority of the Assembly, and that is possibly the best way to control this expenditure or certainly one way of looking at the total bill.

**3.8.5 Deputy G.P. Southern:**

In his rather excitable presentation of myriad reviews, some of those were obviously in the public, some were not. Will the Minister agree to publish, where relevant, the matters that he been investigating, reviewing which are of an internal nature so that we can all know what is going on?

**Senator F. du H. Le Gresley:**

Where relevant, publications have already been released. I will certainly review again whether any of the reviews should be reviewed and issued.

### **3.9 Deputy S. Power of the Minister for Housing regarding the rights of tenants to keep pets:**

Does the Minister accept that the permitting and, indeed, the keeping of companion animals has positive benefits for those Islanders who live alone and, if so, what action, if any, would he consider taking to ensure that those housing associations, trusts and other housing providers who do not allow the keeping of domestic pets within their accommodation, are not in breach of the European Convention on Human Rights?

**Deputy A.K.F. Green (The Minister for Housing):**

Yes, I recognise the keeping of pets can be of benefit to their owners but there is a need to ensure that they do not interfere with the quality of life or other tenants and close neighbours. It is, therefore, at the discretion of the housing providers to decide whether to allow their tenants to keep pets or require them to ask for consent in advance. If the Deputy has a specific concern, however, I am happy to look into the matter for him. I cannot answer the part of the question about human rights; I am not competent to do so.

#### **3.9.1 Deputy S. Power:**

For those of us that have had the privilege of working in Housing and working as Housing, the Minister will be aware there are certain housing providers who do not allow domestic pets, small cats, small dogs. There is evidence that loneliness can cause depression and ill health. Does he not feel that with the advent of Andium and a new Housing regulator that this should be looked at under Article 8 of the European Convention of Human Rights, which is the right to privacy in family life, and Article 14, which is prohibiting discrimination?

**Deputy A.K.F. Green:**

I am not competent to answer the question as to whether it is a breach of one's human right to have a pet. What I am competent to say is that all the trusts that I have looked at have conditions whereby people have to apply to keep a pet. Even if a person seeks permission, some trusts will not allow the keeping of a pet in a flat and I am surprised that the Deputy wants people to keep pets in unsuitable conditions. If the welfare of the animal, however beneficial it might be to the tenant, is not appropriate then the trust is quite right to say no. Les Vaux, for example, do not allow dogs to be kept in flats but they do allow dogs to be kept in houses with gardens. I think that is wholly appropriate.

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

I am disappointed with that answer. I did not hear anything from my St. Brelade colleague suggesting that animals should be kept in unacceptable conditions. Does the Minister accept that a sensible way forward would be to change the presumption; that all tenants are allowed to keep pets so long as they do not cause a nuisance and so long as the welfare of the pet is not put in danger? That would be a much more sensible approach which would still allow the individual providers to override in cases where that is necessary.

**Deputy A.K.F. Green:**

The Residential Tenancy Law, which Deputy Power took through this House, quite rightly says tenants can keep pets so long as it is not specifically forbidden in their tenancy agreement and it does not cause a nuisance to neighbours. It is particularly that “nuisance to neighbours” that I think needs to be reviewed. It is not suitable, I believe anyway, and I have been a dog owner in the past, to keep a dog in a flat in very confined conditions. However, people might want to have a caged bird or some other sort of animal and that would not be prevented but it is right that people apply.

**3.9.3 Deputy M. Tadier:**

But the law is useless if it can be overridden by a tenancy agreement that says you cannot keep pets. The law is not relevant if your tenancy says you cannot keep pets, even a budgie in a cage, in a flat, but that is completely different to dogs being kept in unsuitable surroundings. Does the Minister agree that what is needed, as I asked earlier, is for a simple amendment to be brought forward saying that all people can have pets, subject to certain conditions?

**Deputy A.K.F. Green:**

I do not think it is as simple as that.

**The Deputy Bailiff:**

Very well, that brings that part of Question Time to an end. We now ...

**Deputy S. Power:**

Do I get a final ...

**The Deputy Bailiff:**

You certainly do, Deputy, I am sorry.

**3.9.4 Deputy S. Power:**

That is okay. I thought perhaps that you were accelerating the process and it was the last question. But my last question to the Minister is if pet owners can keep animals in high-rise Manhattan very easily, is there not a case that they can keep pets in flats in Jersey and does the Minister not feel that if the Housing Department - to be Andium tomorrow - can assess pet owners individually that the new housing regulator should apply that across the board to the other housing providers?

**Deputy A.K.F. Green:**

That is a slightly different question to the original question but I am quite happy that when we appoint a new regulator we look at the regulations.

**4. Questions to Ministers without notice - The Minister for Housing**

**The Deputy Bailiff:**

We now come to part 3 of Question Time. The first question period is for the Minister for Housing, you will be able to continue there, and to start the questions is Deputy Southern.

**4.1 Deputy G.P. Southern:**

Is the Minister aware that policy in place for the Housing Gateway for access to the waiting list for Andium Homes states that applicants who are pregnant have to wait until the seventh month of their pregnancy to join the list? Does he not consider this is discriminatory against this particular group and, further, will the Minister publish a set of policies under which Andium Homes is currently operating?

**Deputy A.K.F. Green (The Minister for Housing):**

I think the Deputy has quite accidentally got hold of the wrong end of the stick here. First of all, the Gateway is not for Andium Homes, the Gateway is for all social housing providers. The second point is that if a lady who is less than 7 months pregnant is happy to move into a one-bedroom flat, we will allocate based on need. However, it seems a little bit silly to allocate a one-bedroom flat when once a pregnancy is definitely confirmed a 2-bedroom flat would be more appropriate.

**4.1.1 Deputy G.P. Southern:**

Is he happy that this is not discriminatory and disadvantages those who are pregnant? Does he accept that 7 months is the appropriate date at which to make this decision and, thirdly, given today's medical provision and the reduction in losses of such pregnancies, will he produce a set of policies under which Andium Homes, in particular, is operated?

**Deputy A.K.F. Green:**

I am happy to review the 7 months in the light of the Deputy's question but, I reiterate again, whatever we use as our guideline in the Gateway it will apply to all trusts. But I am happy to review the 7 months.

**4.2 Deputy S. Pinel of St. Clement:**

With reference to the redevelopment of Le Squez Housing Estate in St. Clement, the completion of phase 2 is imminent; I was taken around the new-build last week and both buildings and landscaping were very impressive. Can the Minister inform the Assembly as to when phase 3 will start and what are the procedures being undertaken to ensure that there is no additional delay as some of the tenants are living in what they describe as very unsatisfactory conditions?

**Deputy A.K.F. Green:**

Yes. This estate is one of the things that I am both proud of and ashamed of at the same time. I am proud of the work that has gone on there and the new houses that have gone up that are much better for our tenants - even increases the density - and much more fuel efficient. But I do regret that for some young people particularly, they would have lived in nothing but a building site for the whole of their childhood and that is regrettable but there is little I can do to undo that. To answer the Deputy's specific question, the final phase - which will give us 147 new homes plus a 5-bed unit for a group home for Social Services - will start in October 2015 and be completed by October 2017.

**4.3 Deputy J.A. Martin:**

Just to follow up on that question, could the Minister for Housing confirm what communal facilities are going to be planned into this - as you just said - much higher density housing estate because we do not want to repeat the old Le Squez?

**Deputy A.K.F. Green:**

How right the Deputy is. While I do not have the detail in front of me, we do take proper advice in the way that we lay out the flats, what they overlook, green areas, and I think she would agree that the work we have done so far has been first class and we intend to continue that with proper facilities for our tenants.

**4.4 Deputy G.P. Southern:**

Is it not the case that in Le Squez and Le Marais we have got people living in substandard homes now at the moment as they have decanted out of town or elsewhere in order to be able to house the numbers we are housing and to keep the waiting list down to a mere 700?

[15:45]

**Deputy A.K.F. Green:**

It is not massaging the figures, as the Deputy is suggesting, it is done out of necessity. I would accept that we are putting people temporarily into homes that we would rather not be using. But the department has gone through a massive amount of development; we have developed La Collette Flats, we have developed several different units, Le Coin, De Quetteville Court we are developing at the moment. Those people in those flats were not able to stay there so in addition to housing those who are in great need out in our community at the moment, we also had to find homes for our existing tenants to allow that work to go on. It is not easy and some of our tenants have been inconvenienced and some of the properties, less so these days, I am not proud of. But that is all about what Andium Homes is about; that is what the £207 million directly allocated to Andium Homes is about and £5 million of that was allocated this week.

**4.5 Deputy M. Tadier:**

What steps, if any, will the Minister take, or is he taking, to inform any of his tenants who are living in substandard accommodation that they may, under the law, not be obliged to pay full rent or any rent to his department while the properties are uninhabitable?

**Deputy A.K.F. Green:**

There is a difference between substandard and uninhabitable. We do not have, as far as I am aware, any uninhabitable properties but we do have properties that would be best better insulated, could have better heating systems and so on, and that is exactly what we are doing. There are no tenants, as far as I am aware, in Andium Homes, or in the current Housing Department - Andium takes over tomorrow - and what a milestone that will be in improving social housing.

**4.5.1 Deputy M. Tadier:**

Of course the Minister would say that, though, but under the law it is not for the Minister or the landlord in the private sector to decide what determines “uninhabitable”, it is simply for the tenant, if he or she feels that the property is uninhabitable, to stop paying their rent and then if the landlord disagrees it can go to arbitration through the Petty Debts Court. Does the Minister confirm that understanding to be correct?

**Deputy A.K.F. Green:**

Technically, the Deputy is right but I would advise tenants to engage with their landlords and resolve the problem, not just withhold rent.

**4.6 Connétable S.W. Pallett of St. Brelade:**

What is the Minister doing to ensure that the delays that blighted the first phase at the Belle Vue development are not the same ones that may blight the second?

**Deputy A.K.F. Green:**

That is a good question. We have already brought forward Lesquende 2, which is what I think the Constable is asking about, and we are fully aware of the breeding season of slow worms now. As soon as phase 1 ... in fact, before phase 1 is finished I hope that we will be starting phase 2. I have not got a date there. So 44 more homes on Lesquende but we have already put it on rocket boosters to get it moving. I want it out there in the marketplace, not just because we need the homes but I want to get it out there at the best price before the construction industry is working flat out.

**The Deputy Bailiff:**



I would say to those Members who are outside that we are on the borderline of becoming inquorate. I invite some of them to return so that those who need to leave the Chamber can do so. Deputy Martin.

#### **4.7 Deputy J.A. Martin:**

Earlier on in Questions the Minister for Housing stated the entrance to all social housing is through the Gateway. We have discussed this before and can he confirm that the exit from social housing is different under trusts and new Andium and how is the work progressing to make them the same because we cannot have them being under-occupied?

#### **Deputy A.K.F. Green:**

The Deputy is right, this is one area that does concern me and this is work ongoing, both in terms of regulation and the social housing charter that we are working on at the moment.

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

What targets does Andium Homes have for long-term net housing gain during the 30-year tenure of the £250 million bond?

#### **Deputy A.K.F. Green:**

I should know that figure by heart, it is in our report when we debated P.33 16th May. But I do not have it and I will provide it for the Deputy.

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

Can the Minister confirm that it is around 100 net units of accommodation as a gain?

#### **Deputy A.K.F. Green:**

No, it is higher than that. Also, the only limiting factor now is, in terms of sites, because now that the rent levels are at the right level and now that people are getting the support that they need via Social Security rather than us not doing the maintenance, and now that we have the £207 million bond in place the only thing we require is suitable sites. We have a number to be getting on with but we need more.

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

Does the Minister agree that the table on page 42 of the *Reform of Social Housing* accepts that there is a net gain of less than 100 when you take into consideration the number being demolished?

#### **Deputy A.K.F. Green:**

Where we had about 40 homes at Le Squez we plan to replace them with 140. He is quoting those figures out of context and I am quite happy to sit down with the Deputy and go through them properly. But, as I say, the limiting factor now will be sites and we hope to put that right with the Island Plan.

#### **4.9 Deputy R.G. Le Hérisier:**

Notwithstanding the excellent work carried out by the Minister for Housing, has he any regrets or unfulfilled projects now the good ship Andium is taking over a lot of his work?

#### **Deputy A.K.F. Green:**

My one regret is that we still do not have sufficient housing out there yet to lower the waiting lists to a level I would like to see and also I would like to widen the criteria, but I cannot do that until I increase the availability of homes. By “criteria” I mean criteria for accessing social housing.

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

Does the Minister find it somewhat ironic that if you put Andium into a search machine you get, first of all, his housing association for affordable housing and then next stop Andium H.V.R. (high value residency) high net worth individual immigration into Jersey? Does he not accept the irony?

**Deputy A.K.F. Green:**

I can see where the Deputy is coming from but I am not responsible for what other companies decide to call themselves.

## **5. Questions to Ministers without notice - The Chief Minister**

**The Deputy Bailiff:**

If there are no other questions for the Minister for Housing then we come on to the questions for the Chief Minister

### **5.1 Deputy R.G. Le Hérisssier:**

Given the laying of a proposition on the future of the States Appointments Board, could the Chief Minister confirm that this proposition has got the full support of the current Appointments Board?

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

A very good question, indeed. I have been written to at the end of last week outlining concerns by members of that board and I have asked for a meeting with them at the States Employment Board this coming Friday, at which point I will know fuller what their concerns and whether we are able to address them or not. The Member who asked the question will know that I have already deferred that particular proposition because I have laid an amendment after consideration of another Member's question in this Assembly anyway.

#### **5.1.1 Deputy R.G. Le Hérisssier:**

Can the Chief Minister confirm that none of those members have resigned and that their letter did not contain any issues that could not be dealt by good sense and negotiation?

**Senator I.J. Gorst:**

I hope that is the case but I will find that out when I meet with them on Friday.

### **5.2 Connétable A.S. Crowcroft of St. Helier:**

Does the Chief Minister support the Minister for Economic Development's proposals in P.76 to further liberalise Sunday trading, especially given the lack of information about the effect on the retail sector workforce in the proposition?

**Senator I.J. Gorst:**

Much as I would like to answer questions about the forthcoming debate, I think I will have to leave that for the actual debate so Members will see what my positions are when I come to the vote. I think the Connétable raises some important considerations and the Council of Ministers have very robust debates around where protection for workers, protection of our community as it now is, with regard to the creation of jobs and support for the retail sector. I think it is fair to say that we did not meet eye-to-eye on this issue.

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

Will the Chief Minister comment on the proposed referendum for electoral reform.

**Senator I.J. Gorst:**

I am not quite sure what comment you would like me to give. I arrived at my desk this afternoon and see that there is an amendment to that referendum question. I know that others have been considering an amendment to it as well. I have had meetings during the course of the day and it has been put to me in one of those meetings that does this Assembly respect democracy as a result of the decision that we took arising from the last referendum. I think what we need to make certain is that when we agree the referendum question, if we are going to agree it, that we agree it with a strong majority because we do not want to be in the same position that we were in previously. Therefore, there might need to be some compromise about what question are we going to be able to put to the electorate and we need to have a question that we will be able to draw clear conclusions from and not fudge again as we have done in the past.

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

What might the nature of that question be? One that clear conclusions can be drawn from? Is he saying that the current question put forward, for example, the public vote against, then no clear direction will be available, even in fact if they were both brought?

### **Senator I.J. Gorst:**

That is right. The Chairman at P.P.C. (Privileges and Procedures Committee) told me, I think, largely interpreted to “sit down and read his report” when I raised this question, but the reality is that I do not think the nature of the constituencies that a single member might represent is clearly defined and I am not sure that the public would understand what that were. I think perhaps I have more in common with the now questioner and think that if we are going to move from our current system, first of all, we need to think about what boundaries individuals might represent before we were able to move to a single type of member.

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

Given the Chief Minister voted against Deputy Tadier’s proposal to give sufficient time for questions earlier in the afternoon, how does this sit with the Minister who pays lip service to Scrutiny and Back-Benchers over many months when he says he is in fully inclusive government?

### **Senator I.J. Gorst:**

Then there is a correlation between the 2. If we are to finish the business, which I think everyone on the Assembly wants us to do, there is a good mix of Ministerial and Executive business and Back-Bench business and all need to be given appropriate time and due consideration. There were only 9 questions; I think 4 minutes per question seems reasonable. I think we perhaps have done it in slightly over that, or around about that anyway, and, therefore, by default I think that is what the Assembly has got whether it voted for it or not. I do not see a correlation at all. I think that Scrutiny have performed well in this last 2½ years. We see that again with the Scrutiny Panel’s review of C.A.M.H.S. and the action that Ministers are now taking arising from that. I do not accept the comment of Connétable of St. John, he seems to be living in the past where Ministers did not respect Scrutiny and did not act upon Scrutiny reports, and that is not the way that it is been during this term of office.

### **5.5 Deputy N.B. Le Cornu of St. Helier:**

Would the Chief Minister confirm that he will be inviting observers to the Island’s first general election in October and who he has in mind to be present as observers?

### **Senator I.J. Gorst:**

I am not sure it is within my remit to do so. I would support election observers and I have written to the Chairman of the Privileges and Procedures Committee in that regard and to the President of the Assembly. I think they are awaiting ... I think they now might have advice and I think I might

have received a copy of that advice at the end of last week but I have not been able to consider it. I have written back to them again in light of their response to me, so it is in action.

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

Is the Chief Minister fully in agreement with the words of his Minister for Treasury and Resources who was suggesting that there was an open door to migration for the finance sector in particular?

#### **Senator I.J. Gorst:**

I was not at the briefing where these comments were supposed to have been made but I do not know if there is any difference between myself and the Minister for Treasury and Resources, and the Interim Population Policy is quite clear. We need inward migration to stimulate and grow our economy and create jobs for those who are already here and we say that we will do that by accepting high economic value immigration into our community. Even by the Deputy's calculation of high economic value, he must admit that that means that financial services bring that high economic value into our community.

[16:00]

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

Does he further accept that the arrival of such high value employees will cause an extra demand on the housing situation in the Island when we already have 700 people waiting to be housed properly?

#### **Senator I.J. Gorst:**

We do have a waiting list for housing in our community and that is one of the reasons why we have transformed the way that we deliver social and, perhaps we are using the term now, affordable housing. That is one of the reasons why we went to the market and got a fantastic rate on a Jersey bond. About £250 million is going to be put into renovating and building new homes to help meet that demand. We are absolutely committed to ensuring that that demand is provided for. The Assembly in due course during the Island Plan debate is going to be asked to rezone sites to help on the supply side of providing homes. I hope that the Deputy, in the light of his question, will be supporting those amendments.

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

The Minister did not answer the question at all. He went all around it, as usual, but did not answer the question.

#### **The Deputy Bailiff:**

He has given you quite a long answer and you have to make of it what you will. Deputy Le Hérissier.

### **5.7 Deputy R.G. Le Hérissier:**

Apropos of my earlier question to the Assistant Chief Minister, could the Chief Minister confirm that he is entirely happy with the 325 cap, given that there will undoubtedly be a massive demand from the construction industry until Social Security's programmes for training people in construction are well advanced? Can he confirm that the 325 cap is quite adequate in order to cope with this demand for construction labour?

#### **Senator I.J. Gorst:**

The Deputy likes to use the emotive word "cap". You will see from the Interim Population Policy that it is a Planning Assumption and so he is questioning me. I hope he has been speaking to his Minister because I was questioning his Minister last week at the Back-to-Work group because this is an issue that we are fully ... that Ministers are aware of, that the Ministers that sit on the Back-to-

Work group are aware of. I subsequently met with construction industry representatives and we talked about this issue as well, so I am going to be accused of giving a long answer. The Back-to-Work team is providing training for 200 people to get into construction. They announced that only last week. The questioner's own department has a plan for a new skills centre. I have challenged them and I have challenged Treasury to bring that plan forward because that is going to be absolutely critical in dealing with this difficulty that the construction industry are going to face. When I think what the demand is going to be and what the spend is going to be over the next 3 or 4 years, we are aware it is a problem. We are putting in place actions to ensure that we mitigate that problem but, at the same time, there will need to be some inward migration to deliver some of the larger projects. The question is how are we going to do deliver that and we suspect we might be able to do it through named licences in the short term.

**The Deputy Bailiff:**

Deputy Higgins, you are running out of time.

**5.8 Deputy M.R. Higgins:**

Just following on the Chief Minister's last answer, if I remember correctly, I think it was 2 months ago, the number of people who work in the construction trades who are unemployed was 187, which we all know is totally inadequate if there is going to be a lot of building going on in the Island. The Minister has mentioned that a skills centre is going to be built, that could take 2 or 3 years, and so on. Will he admit that because they have not taken steps before, we are going to have an influx of construction workers to fill the vacancies that are there? Will he not admit that is the case?

**Senator I.J. Gorst:**

I do not think you can accuse anybody in this Government of not taking steps to do with the unemployment issue, to do with the skills gap and shortage. We have taken, I believe, more steps than any previous Government but we do not sit on our laurels and say there are no issues coming in the next year, the next 2 years. We are putting in place a programme to ensure that we can mitigate the changes that we know are happening in the construction sector. The Deputy says it is going to take 2 or 3 years. I have told the Education and Treasury Departments that that is not good enough. The spend on the new skills centre needs to be brought forward and needs to be delivered during the course of the end of this year and the start of next year. We need to get more people into training for construction. Let us not forget we have got Trackers as well. We spoke to the construction industry representatives and they absolutely accept that Trackers can be expanded. They think there is another about 100 per cent capacity in their industry where they could take those people off. They are working with us with the training of the 200 people. The Deputy needs to look at what we are doing and work with us to deliver on these programmes and deal with the challenges that we face ahead rather than looking to the past and how things have been dealt with in the past.

**The Deputy Bailiff:**

Chief Minister, you have absolutely risen to the bait of thinking you could talk out time but I have made a mistake and there are an extra few minutes to come. **[Laughter]**

**5.8.1 Deputy M.R. Higgins:**

Just following on from the Chief Minister's answer, I am fully prepared to support him for the future; I want to see our people trained and trained well. However, will he tell us how many people were trained in construction and engineering? I have asked this question in this House a number of times; I have never had a satisfactory answer over the last year or whatever. How many people have been trained to fill the needs that we knew were coming?

**Senator I.J. Gorst:**

You would not expect me to have those numbers off the top of my head but what I can say, and what I have said in this Assembly before, and I have said to departments and the Back to Work Ministerial team, is ensuring that we improve it. It is not enough. We have got 57 people in Tracker schemes now, I think largely in construction. It is not enough. We need to double that; we need the new Skills centre to be brought forward to deliver more skills. One thing I can say to him is whatever that number is as a result of the programme that we announced last week, there are 200 more people going to be trained over the next few months with the support of Social Security and the Back to Work team. I say to him again - and I am not trying to talk out time because I think I have got plenty of minutes left yet - that rather than looking to the past and what has happened he should look at what we are doing and support what we are doing.

**Deputy M.R. Higgins:**

Will the Minister circulate the figures, please?

**The Deputy Bailiff:**

You have been asked whether you will circulate the figures, Chief Minister.

**Senator I.J. Gorst:**

I am surprised they have not been circulated already if the Deputy has asked for them, but I will undertake to do that.

**STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

**6. The Chairman of the Comité des Connétables - statement regarding the Island-wide rate for 2014**

**The Deputy Bailiff:**

Any other questions for the Chief Minister? No? Chief Minister, you have beaten them down. All right, we have come to the end of Question Time. There is nothing under J. Under K matters of Statements on a Matter of Official Responsibility, the Chairman of the Comité des Connétables.

**6.1 Connétable J.L.S. of Gallichan of Trinity (Chairman, Comité des Connétables):**

I wish to inform Members of the cost to ratepayers across the Island, the Island-wide rate for 2014 which has been determined in accordance with the Rates (Jersey) Law 2005. The 2014 annual Island-wide rate figure is the 2013 figure of £11,641,129 increased by the Jersey Retail Price Index for the last 12 months to March 2014 of 1.7 per cent resulting in the sum of £11,839,028. In accordance with the Rates Apportionment (Jersey) Regulations 2006, 55 per cent of the annual Island-wide rates figure is to be met by domestic rate and 45 per cent of the Island-wide rate figure to be met by the non-domestic rate. The sum of £6,511,465 is, therefore, raised by the domestic rate and the sum of £5,327,563 from the non-domestic rate. The rates are determined by dividing the sum to be raised between the number of quarters assessed on domestic and non-domestic property. The rates, therefore, will be 0.7 pence per quarter for domestic ratepayers and 1.23 pence per quarter for the non-domestic. Just to show what the rates were for 2012 and 2013, they were 0.69 pence - they did not change - and they have now gone up to 0.70 pence. The non-domestic was 1.21 pence which will now rise to 1.23 pence.

**The Deputy Bailiff:**

Are there any questions for the Chairman of the Comité des Connétables?

**6.1.1 Senator P.F.C Ozouf:**

May I just ask if the Chairman gave any consideration to changing the 55 per cent and 45 per cent split?

**The Connétable of Trinity:**

No.

**Senator P.F.C. Ozouf:**

May I ask why not?

**The Connétable of Trinity:**

Depending what the question would have been. If we had considered it I might have said we had considered it but he asked us had we ever thought of it and I said no. But I would say we could consider it in the future. There is nothing to say it cannot be changed but this year it was not considered.

**6.1.2 Deputy G.P. Southern:**

I think the Chairman may have already answered my question. What plans are in place to discuss with the Minister for Treasury and Resources the changing of these rates to potentially achieve a greater proportion from business?

**The Connétable of Trinity:**

I think it is fair to say, Deputy, we would like to keep these figures as low as possible and I think if we talked to the Minister for Treasury and Resources he might have different views on taking the figures lower so we might find there could be more increases. What is in place at the moment I think is satisfactory for the Island, domestic and non-domestic at the moment, but these can be reviewed at any time and, of course, we would have to discuss ... I know people think businesses make a lot of money but to run a business does cost a lot in this Island and we would have to review these quarters, or not the quarters, certainly the price would have to be taken into account with the problems of the retail business and a lot of the businesses in the Island at the present time.

**6.1.3 Deputy M. Tadier:**

Would the rates be lower if the States were to pay rates on their properties?

**The Connétable of Trinity:**

A very interesting question that because you usually find that if ... there is no free lunch in Jersey not usually. Certainly not in the States. Can I just say that whatever income that would be paid forth by the States obviously we are trying to recoup it from some matter of taxation, so I would say it has to be reviewed very carefully because before you realise you may think the States are paying rates and that will bring down the quarters but the thing is, who is going to pay for the States portion of that rating? I think we have to be very careful. Obviously, as you know, the Connétable of St. Helier has strong views on that. There is paperwork being done between the Treasury and the Connétables and I am sure in the ... it certainly will not happen this year but in the forthcoming year you will see progress made on Island-wide rates for the States.

**The Deputy Bailiff:**

Are there any other questions for the Chairman? Then we come to an end of the Statements of Matters of Official Responsibility and we come to Public Business.

**PUBLIC BUSINESS**

## **7. Draft Shops (Regulation of Opening) (Amendment) (Jersey) Regulations 201-(P.76/2014)**

### **The Deputy Bailiff**

As the Greffier circulated Members earlier we are going to start with the Draft Shops (Regulation of Opening) (Amendment) Regulations - P.76 - lodged by the Minister for Economic Development, and I ask the Greffier to read the ...

### **Senator F. du H. Le Gresley:**

As we are moving around the Order Paper I wondered if I could request the Members approval to move P.82, which is the Draft Social Security (Bonus) on the agenda to follow P.92?

### **The Deputy Bailiff:**

The Members are looking quite relaxed about that, Minister, so that is what will happen. So I ask the Greffier to read the proposition.

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

Draft Shops (Regulation of Opening) (Amendment) (Jersey) Regulations. The States, in pursuance of Article 4 of the Shops (Regulation of Opening and Deliveries) (Jersey) Law 2010, have made the following Regulations.

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

Members will need no reminding of the highly emotive nature of this subject, which is far more than just about potential economic benefits. Media commentary, social media, letters to the paper, and a number of public consultations make it clear that the topic of Sunday Trading divides opinion across the full spectrum of our community. Several recent consultations emphasise this point with one showing respondents slightly against and the next one where respondents were slightly in favour. Members might be surprised to hear that I have no strong feelings on this subject other than I believe that Sunday Trading represents one part of a package of measures that could help support our retail and, by extension, tourism sectors. In essence, it can be argued that it should be a matter of choice. Choice for retailers as to when they open and choice for consumers as to when and how they might choose to shop. There is no question that traditional bricks and mortar retail has declined in recent years, and not just in Jersey. This decline has accelerated due to recession but also due to the rapid growth in online sales. Today Islanders spend an estimated £250 million a year online and that figure continues to grow. There are some 390 less jobs in Jersey retail sector today compared with just 2011.

[16:15]

That is why I do not believe we can avoid difficult debates like this. As Minister for Economic Development I certainly cannot. My job is to support the retail sector, jobs and the economy as a whole. However, I will not stand here and try to tell Members that Sunday Trading is some sort of silver bullet that will revitalise local retail all on its own, because it will not. But enough evidence from other jurisdictions indicates that longer opening hours play an important role in equipping traditional bricks and mortar retail to better compete with the internet retail revolution. I will come back to that point about other jurisdictions in a moment. There are strongly held views on both sides of the argument, but this debate is not about that detail. It is about finding a way to establish the facts. The only effective way to do that is through a strictly time-limited trial and that is what this proposition asks Members to support. I therefore bring this amendment to temporarily extend the opportunity of Sunday Trading to the 20 or so large retailers occupying more than 700 square metres of premises that are currently restricted from opening during most of the year. A critically important point is that this amendment only suspends the Sunday Trading regulations for the trial



period and would, if approved today, definitely and automatically end on 31st December 2015. For the trial conditions to become permanent a further proposition would need to come to this Assembly at a later date. This is therefore not a stealth move to further deregulate Sunday Trading permanently. Currently any retail premises occupying a sales area of less than 700 square metres can already open on a Sunday, subject to approval by permit of the Constable of the relevant Parish where the shop is located. Many choose not to do so principally, we believe, because without the 20 or so larger anchor stores there does not appear to be enough footfall to make it viable. In addition, smaller retailers who already qualify to open are currently required to prepare a potentially costly surveyor's plan to prove their retail sales area is below 700 square metres. For the many small businesses that might choose to open this is clearly an additional and a costly barrier. The important point is that full control of all Sunday Trading permits remain with the Connétable who can impose any conditions, for example, limiting early morning deliveries or restricting the length of the trading day. So if this temporary trial is approved by Members today a further 20 or so large stores would have the option to open. Whether they exercise that option is of course a matter for them. The retail and tourism sectors of the economy have been well documented with the declines that they have seen in recent years. I believe that this is important that we recognise and present these industries with every opportunity to be competitive. A vibrant accessible and quality retail sector offers, as other international destinations have discovered, opportunities to attract high value business and leisure visitors. This amendment is only one aspect of a number of initiatives that my department is co-ordinating across government to deliver support for the retail sector. Support for the sector has to be a whole of government approach as a number of departments have responsibilities for areas that impact directly on retail, such as T.T.S. (Transport and Technical Services) with regard to parking, and Planning with a number of issues in terms of retail premises. We have therefore been working jointly across government and with industry to develop a package of measures to assist retail. The package under development includes enhanced customer service training programmes, developing state-of-the-art digital signage for St. Helier, late night opening, click and collect internet shopping, small business support and enhanced customer experience through events and entertainment programmes. I am also delighted with a newly announced initiative strongly supported by the Parish of St. Helier to deliver a regular Sunday street market. This partnership between the Parish and my department where we are providing funding of £8,000 initially and a further £5,000 based on various success criteria will involve up to 16 stalls through New Street and Broad Street every Sunday between July and October. I would like to particularly thank the Constable of St. Helier for his support of this important Sunday Trading initiative and the opportunity that it presents to a range of new, small retail businesses.

**The Deputy Bailiff:**

Minister, can we keep to the Regulations please? You are proposing the principles of the Regulations.

**Senator A.J.H. Maclean:**

Indeed, I am, Sir.

**The Deputy Bailiff:**

Not some other initiative which you are conducting.

**Senator A.J.H. Maclean:**

This is relevant, Sir. There are examples of other jurisdictions of the growth of the traditional retail sector and the effect of combining online effectively. An interesting example I would like to give to Members is from a recent visit to Estonia, a country of 1.3 million people that has connected the whole country to low cost high speed broadband. In such a highly digitally enabled society with

free Wi-Fi in all public places we assume that their retail sector would have been decimated but, no, instead we saw that it was growing and last year by a staggering 11 per cent. The reason appeared to be that retail had embraced technology and the traditional retail model had been turned on its head. It was also notable in Estonia that most shops were open from 7.00 a.m. to 11.00 p.m., 7 days a week. I will briefly summarise the detail of the amendment before Members. If approved it would allow shops of any size access to general permits. This less restrictive permit scheme will be balanced by a limitation on the hours during which larger shops can trade in line with current legislation in the U.K. (United Kingdom). Under the proposed trial larger shops will have the option of opening for up to 6 hours on Sundays between 10.00 a.m. and 6.00 p.m. At the request of the Comité there will be a higher fee of £250 for larger shops applying for a general permit rather than the £50 charge which exists for smaller shops currently. This reflects the additional benefit to the applicant and the additional consideration that the Connétable must undertake in determining the permit applications and any conditions that may apply. This amendment also seeks to introduce one permanent change with the intent of reducing the amount of red tape currently associated with applying for a general permit. Currently all shops need to commission a surveyor's plan to supply with their initial application for a general permit in order to demonstrate that their retail sales area falls below 700 square metres. The intention behind this was to offer a standardised method of determining shop size but feedback on its operation suggests that it is seen as an overly-bureaucratic and costly exercise for smaller shops. If the trial period is approved shops will still need to declare the size of their retail sales area in order that the Parish can charge the £50 or £250 fee respectively. However, I believe there is scope to remove the necessity to commission a survey on a permanent basis. Bearing in mind there is ample provision for the Connétable to investigate any shops applying for a permit, shops would self-declare and should there be any concerns over size information already available to the Parish should verify the accuracy of any documents supplied by them. The Connétable could also step in under Regulation 12(5) and impose further conditions as he or she may see fit. That could include of course requiring any retail outlet whose size was in doubt to provide appropriate proof. With these safeguards in place I believe it is right that we remove some bureaucracy and expense from the application system by eliminating the need for a surveyor's plan. Additionally my department recognises the concerns regarding the effect on retail workers of any expansion of Sunday Trading and, as such, I have written to the Minister for Social Security requesting that he considers a change to the law in this area to allow retail workers to opt out of Sunday working if they so wish. In order to allow us to effectively quantify the success of the trial, it is paramount that it is measured and measured appropriately. We have engaged with and will appoint a specialist company in gathering and analysing footfall and associated retail information to ensure that trial data is captured. The research will draw on the currently available footfall data for St. Helier as well as an analysis of the overall trading values and the views of customers and retailers over the trial period. In summary, relaxing Sunday Trading rules is not a panacea but it is something that we can do and something that I believe we should consider doing if the evidence from the trial is supported. I ask Members to support this temporary, time-limited trial so that we can make an informed decision based upon facts as to whether further expanding the opportunities for Sunday Trading is indeed beneficial for Jersey, our retail and tourism sectors, and our wider community.

**The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]**

**Deputy R.J. Rondel of St. Helier:**

Would you allow me to declare an interest and withdraw from the Chamber for this debate?

**The Deputy Bailiff:**

You have to declare any interest which is a personal interest, but unless it is a personal financial interest you are not required to withdraw.

**Deputy R.J. Rondel:**

We have a very busy farm shop which opens on a Sunday, which if I vote the other way it could be perceived to be making a difference.

**The Deputy Bailiff:**

I better stop you before you use the Assembly for marketing then, Deputy. **[Laughter]** Very well, please withdraw.

**7.1.1 The Connétable of St. Helier:**

I want to start by alerting Members to the fact that I want to propose a reference back of this proposition because it seems to me that there is going to be, or there may be an effect on retail workers of the expansion of Sunday Trading. This is referred to *en passant* in the introduction on page 3 of the proposition. I believe that Members will want to know much more detail about the effect of such changes on the retail sector. It may be argued that this is only a trial and therefore that information is not necessary but it seems to me that most Members, and I am sure members of the public, will agree with me that if we take the brakes off now they will not be put back again and therefore we do need to know the impact on our workforce before we enter into this trial.

**The Deputy Bailiff:**

Connétable, could you just point me to that part of the report which deals with this issue?

**The Connétable of St. Helier:**

It is in the penultimate paragraph of the introduction to the report where the Minister says he recognises the concerns regarding the effect on retail workers but does not go into any detail and I believe we need that detail before we can make this kind of decision.

**The Deputy Bailiff:**

What extra information are you expecting the Minister to produce?

**The Connétable of St. Helier:**

I think the information that he says that he will get it from the Minister for Social Security but he has not got it yet and I believe that he should supply that information, not only from the Minister but by consulting the workforce and finding out what concerns they have about their jobs.

**The Deputy Bailiff:**

Minister, which law are you referring to when you refer to the Minister for Social Security bringing forth a change in the law?

**Senator A.J.H. Maclean:**

I am referring to the Employment Law. I wrote to the Minister to ask him to look at similar provisions to those provided in the United Kingdom for an opt-out clause, which does not currently exist. It is a belt and braces view that I have asked the Minister to consider, which he has said that he would, I believe, consider in due course. But I would just point out that the whole purpose of the trial is to establish issues relating to all facets of a trial which would include of course this.

**The Deputy Bailiff:**

At the moment I am just deciding whether it is in order. You will get an opportunity to speak in a moment. Connétable, one of the difficulties with the proposal for a reference back on this

particular point is that first of all the Minister has to decide whether or not he wishes to promote a change to the law. Secondly, we do not know whether or not the Assembly will accept it. Thirdly, even if it is to come into force it will not come into force until at least halfway through the trial, which seems to me to be at risk - and I am therefore asking you for comment - of preventing a debate on the proposition resuming for practical purposes at a future meeting.

[16:30]

**The Connétable of St. Helier:**

Yes, I understand it would certainly have that effect but it seems to me that we would then be able to have a debate about relaxing Sunday Trading in future, it could apply over the Christmas period but we better have that debate in the autumn with all the information that we need to make a decision.

**The Deputy Bailiff:**

But it would not enable debate on this proposition to resume.

**The Connétable of St. Helier:**

Indeed.

**The Deputy Bailiff:**

Because it would not enable debate on this proposition to resume I find that it is not in order under Standing Order 83 of Standing Orders because the effect, if the reference back is approved, would be to prevent a debate on this proposition resuming in a practical sense at a future meeting. Do you wish to speak?

**The Connétable of St. Helier:**

If I could continue, Sir, after that unsuccessful effort. First of all I do need to thank the Minister for his generous remarks about what is being done by his department to assist retail in St. Helier. His department is working extremely hard with many groups, not only elected members, but with people out there: retailers, Chamber of Commerce, to support retail in Jersey and not just in St. Helier. He referred to the prospect of a Sunday market, which I think he was implying indicated a slight hypocrisy on my part in opposing this but, of course, one of the ironies of this trial, if it takes place, is it will make it much harder for the Parish of St. Helier to run a Genuine Jersey-type street market because one of the effects of taking the brakes off Sunday Trading will be to increase traffic. The need for traffic to circulate freely through town on a Sunday, as it does on the other days of the week, thanks to the good offices of the Minister for Transport and Technical Services, will clearly compromise the ability to hold a street fair every Sunday. So I do not think it is entirely fair of him to refer to that market, although I do thank him for his offer of funding and I hope that will still be intact, however this debate goes. I have just briefly referred to traffic and when this matter was discussed by the Constables' Committee, it was one of our big concerns and, indeed, the elected Roads Committee of St. Helier had major concerns about how total liberalisation of Sunday, making it like any other shopping day in St. Helier, will have these effects on town, and particularly on town residents who would like, please, just one day a week which was a bit quieter [**Approbation**]. Increased traffic will, of course, mean increased demand for parking. There is no reference in here as to how that is going to be managed. I assume it will be a free-for-all, but certainly there will be cost implications for the Parish, and presumably also for Transport and Technical Services, because workers are going to have to be found to manage that demand for parking. Street cleaning costs are going to have to be increased in order to keep the town clean and free of litter on a Sunday. The concerns have been spelt-out by the Constables, and certainly they are not new. As I say, I have no moral problem with greater Sunday Trading, I think in some parts

of the world it works very well, but we have clearly recently changed our Sunday Trading laws to concentrate on not what a shop sells but how big they are. We now have a situation where the larger shops are not opening and that is keeping a lid on the situation; we just have the smaller shops opening, not every Sunday of the year but certainly in the summer, and that gives people enough to do in town, particularly the French visitor. So I, and certainly with the backing of the St. Helier Roads Committee, am not able to support this; I believe we should leave the current system of Sunday Trading to work for longer. We certainly need to consider the costs of these proposals and how that funding is going to be supplied before bringing them in, and I have a very real concern that if this trial is approved today it could be counterproductive for the Minister, and we could have a situation where I am coming with a begging bowl to the Council of Ministers to fund the various unseen consequences that come out of this proposition being accepted. Therefore, I am certainly not able to support this and I would recommend Members to not support it either.

### **7.1.2 Deputy A.K.F. Green:**

This proposition is wrong on so many fronts, and I will try and cover some of them. I declare to being a fully-paid-up member of the “Keep Sundays Special” brigade, and I make no apologies for this; in fact, in my view, the current system has already gone too far. This proposition is a trial and, if accepted, will be the beginning of the end of Jersey family life as we know it. The one day in a week - not all, because of commitments in terms of care provision and those that do work in current retail and those that work in hospitality - where a good number of families can spend time together enjoying the wilds of St. Ouen or time on the beach, or just relaxing in the garden growing veg. That one day of the week will be lost; that family activity will be gone and it will be gone for ever, it will not come back. I believe there are hosts of other reasons why Sunday Trading is not the answer to the traders’ problem. I commend the Minister for wanting to improve the quality of service, for wanting to have longer opening hours; those things are right to do, but Sunday Trading is wrong. As the Connétable of St. Helier has mentioned, many of the residents of St. Helier look forward to that one day a week when they are not woken up in the early hours of the morning with the beeping of delivery vans bringing in the current day’s stock and refurbishing the shops. Is it too much to ask that the residents of our capital have one day in the week that is quieter, where they have peace and where they can move around the town more freely? It was stated that this could be the answer to encourage shoppers to abandon the internet. It is cloud cuckoo land; they are not going to abandon the internet. They may use the shops more, if the service is good and they are open on the way home or on the way into work, but they are not going to abandon the internet. Opening up on Sunday will not change that one iota. It is also stated that opening on a Sunday will increase spend; another frequently pedalled myth. All it will do is spread the same 6 days’ expenditure over 7 days, it will not increase spend. What will happen, though, is it will increase the costs of operating; operating a 7-day-a-week operation is far more costly than operating a 6-day-a-week operation. I have 40 years’ experience of preparing rosters for staff working over 7 days a week and I can tell you that those rosters are considerably more expensive to operate, even given the limited opening times proposed. I estimate the increase in costs to be around 20 per cent and I can visualise now the applications to the Population Office and, by default, to the H.A.W.A.G. (Housing and Work Advisory Group) for traders needing more staff to open on a Sunday, claiming they cannot recruit sufficient staff and could they have more licences. I know there are some that will perhaps say I am bah humbug, miserable and preventing students and others from possibly enjoying some employment on Sundays, and I say to them: go out to the hospitality sector, they are desperate for people to work weekends and evenings, there is plenty of work out there. We do not need to sacrifice our quality of life, Jersey’s way of life, keeping Jersey special for Sunday Trading. If this proposition is accepted it will bring about also, I believe, the demise of the smaller convenience store, so be careful what you wish for; we may all end up coming to town to get a pint of milk on an evening because there will be nothing else able to survive. I could continue as to why

this proposition is wrong, but I will come back to where I was at the start of my speech, and my fundamental thing. I find it ironic that later on we will be discussing family-friendly laws, and quite rightly so, and here we are debating one of the most unfamily-friendly propositions that this House has ever seen. We have the highest proportion of working females, many of them are mums. We will be debating soon to allow mothers and fathers time to be with their families - I refer to maternity and paternity leave - and yet we propose to prevent families from spending one day a week together. I find it quite ironic. We already have a very high, if not one of the highest, levels of divorce. I do not want to sound like doom and gloom, but if this goes through, divorce rates will be higher. Workers, it is stated, will be protected from working Sundays if they do not wish. Well, I have to say to the Minister: such protection in the U.K. does not work, and I speak from personal family experience. It is a failure in the U.K. and it will be a failure here and, if we are going to have consistency across the board, if we are going to give options to the retail sector, are we going to say the same to the hospitality sector? Are we going to say the same to the care sector: "You do not have to come in on a Sunday if you do not want to"? Where are we going to be consistent? I think I have said enough, really. Let us keep Sundays special, let us keep Jersey special, let us enjoy that special family day when we can, and I urge Members to reject this proposition and bury it in the deepest rabbit hole we can find at Plémont.

### **7.1.3 Senator P.F. Routier:**

I should just clarify that my family does have an interest in a small retail business, but I am never there, I am hardly there because I am always doing States business, so I feel I would like to speak, but I make that clear. Jersey has a resident population of around 100,000, we have a number of staying visitors and some day visitors. We are not a city of millions, we are not a large town, we are not a market town, we are not even a town in Estonia, all of which have large catchment areas from which to attract people. Our small town has a mix of national multiples and a good selection of independent locally-owned businesses. These independent locally-owned retailers make our town special, make our town different and make it appealing to visitors to our Island. Even looking at Tourism's own website, Jersey.com, and the literature, they focus on the independent shops because that is what is appealing to visitors. If I may just quote from Tourism's very own website; it is under the tag: "Bags of Style." "It is not just about the sun and the sand in Jersey, its main town is the place to pick up the latest looks from the top designers, browse St. Helier's unique fashion boutiques and you will discover hand-picked collections from all the leading labels, from the exclusive to the edgy. Take time to venture away from St. Helier's main shopping street and you will find a maze of pedestrian streets around the town's Victorian market that are home to a unique collection of designer boutiques, from the chic and contemporary to the eclectic and the exclusive. Each shop has its own individual character. You will discover the latest designer labels featured in *Vogue* ..." and it goes on. But it goes on to describe how important the small locally-owned shops are. The only reference it makes to King Street, that I can find on the website and in the literature, is about the 2 large department stores, which have Jersey as their origin. We know that one of the owners of one of the Jersey stores does not see the merit in opening on a Sunday. It is quite evident that the larger national multiples are not really what makes Jersey special; it is the small locally-owned independents that make Jersey's retail offering different from any clone town in the U.K. If there is a desire for St. Helier to become even more of a clone town with no individuality and no reason to shop, no reason to buy, then support this proposition and kill off Jersey's unique retail experience. This may sound rather dramatic, however, the reality of having the larger stores open on Sundays will put pressure on the small local family-owned shops to open. Of course, the proponents of Sunday Trading will claim it is about choice and the other option for the independent retailer who wants to spend his time with his family and friends is, of course, to remain closed and lose trade to larger competitors who will open. The reality of that is that, eventually, the small family businesses will lose out and potentially threaten the very existence of

their business. This proposition plays into the hands of the national multiples. Where would all those fine words in the Jersey Tourism brochure be then? Perhaps they would be saying: "Come to Jersey and shop in the very same national shops that you have in your home town and pay the same price. **[Laughter]** Be sure to find yet another clone town here in St. Helier."

[16:45]

I am not sure that is going to work as a tourism slogan. I have friends who have retail shops in towns in the U.K. and they rue the day that their towns started trading on Sundays. They tell me that their overall profitability has not increased, their costs have increased and, at the same time, the time away from their families has also increased. They are worse off and they have also seen their town deteriorate. Even traders who are in large cities where they have large catchments and Sunday has become an important trading day, tell me that all that has happened is that the business that was predominantly focused on Saturdays has now spread over the 2 weekend days and Monday's trade has decreased. As one U.K. retailer said to me: if only he could turn the clock back because Sunday Trading has not only put pressure on his business but, importantly, on his wife and children. Turning to the effect on the social wellbeing of our community, I have grave concerns for those who will be required to work. Although my extremely good friend, the Minister for Economic Development, has expressed the desire to request the Minister for Social Security to bring forward legislation, as we have found out, to give some protection for workers who do not want to work, this does not help at all during this proposed trial and, even if it were in place, experience shows in other jurisdictions that any such law is ineffective because people who need jobs will agree to work on Sunday because they have little option. It is often newcomers to a community who are starting out in the job market who feel obliged to work. If I may just give a little anecdote: a few weeks ago. I was asked by my wife to buy some bananas on a Sunday. I was heading for one of the small shops but was passing one of the large stores, which would be permitted to open if this so-called trial goes ahead. I presume the store was using one of its 5 single permits, which they are allowed, so I popped in there. The store was deserted, other than for a few staff. I went to the checkout with my bunch of bananas and the young girl, who took the bananas and was furiously tapping the screen of the till without me saying a word, said: "Even the scales do not want to work today." **[Laughter]** I asked her why she was working, and she said she had to. I asked her if she will be working on other Sundays and she said that she had been told by her boss that she would be working from the middle of July. I presume her boss was anticipating this debate. I am generally not one for quoting from the *J.E.P. (Jersey Evening Post)* but when I saw this I really could not resist it: "Sunday Trading will mean death of corner shops" which the Constable referred to; this comes about from Economic Development attending at Scrutiny ... sorry, it was not Economic Development, it was representatives of retail businesses: "'Allowing all shops to open on Sunday could be catastrophic for small stores and result in the death of the corner shop', the 2 men who head the Island's biggest retailer groups have warned. They said that 'a decision to allow all stores to open their doors on Sundays will take away vital trade from local shops'." There is a sub-headline: "Big retailers being allowed to open could spell the death of local stores." It is quite possible that the bosses of these 2 organisations are being protective of their smaller stores in the country Parishes, however, I support that in that trying to maintain the balance of the future existing retail offer to our community is vitally important. Just one other comment with regard to retail staff's lack of desire to work on a Sunday: I was in a large garden centre where there were several well-established employees, who I know well. I was asked about my views on Sunday Trading and this proposition but, before I could give my opinion, I was told that if Sunday Trading started, there would be resignations at the garden centre and that it would be from the experienced long-term staff who had the most product knowledge. I was urged to vote against this proposition. Members may have guessed by now which way I am going to vote. The main focus of my objection to this proposition is based on my desire to protect and enhance family life, to protect and

enhance cultural life, to protect and enhance sporting opportunities for our community. Do Members really want a shop worker to say to his or her family: "We cannot go to the Heritage family day today because I have to work." Do Members want a father to say to his son: "Sorry, I cannot take you to football" or rugby or other sport: "because I have to work." More sports are focusing on weekends now, even my sport of table tennis is considering moving league matches for juniors to weekends so as not to disrupt school homework and to avoid mid-week late nights for school children. If we want a balanced, healthy community, we should not be putting barriers in people's way to take part in cultural and sporting activities which are focused on Sundays. I really want to challenge the point that is made that opening on Sundays is going to create work opportunities for those who like to work. Retail is one of the largest employers of newcomers to our Island. The Assembly has agreed that there needs to be controls on immigration. Retailers claim on a regular basis that they cannot find suitable employees from within the locally-qualified unemployed ranks and they ask to have sufficient registered, or newcomers to our Island, within their licence. For the avoidance of doubt, I cannot see the Housing Advisory and Work Group wanting to give new licences to businesses to increase the registered immigrant staff so that a store can open on a Sunday. In fact, if the proposition were to be supported, I would take it that this Assembly was signalling that a loosening of the controls was required. I certainly do not support that, for jobs in the retail industry, we should be doing that. This proposition runs counter to the Interim Population Policy. In summary, our community in Jersey is special. Our retail experience is unique and special. Our culture is varied, historic and special. Our sporting opportunities are wide and varied. Why put all that at risk by putting demands on families and shop workers? Why should shop workers and their families not have the same opportunities to enjoy our special Island life and experience our cultural and sporting events. Please reject this proposition and keep Jersey special.

#### **7.1.4 Connétable M.P.S. Le Troquer of St. Martin:**

I take on board your earlier comment, Sir, and I note I am the fourth speaker in this debate. Many of these issues have probably already been spoken about from the 3 previous speakers and I have cut little bits out of my note. Some Members probably expected me to speak today during this debate, and I do not want to disappoint them. Members may be thinking that I am speaking from a religious angle: close all shops, have every shop shut on a Sunday, rigorously opposing the proposition and that Sunday should be a day for the church and everyone else should attend church services and need a day of retreat and quiet reflection. Members will be pleased to know that I am not going to do that, although I fully support the words that we have had from church leaders in the recent weeks via the newspapers and presentations that we have had, and the quality time that they have spoken about, especially the unseen benefits to the community, for not only those who work in shops, but those who live close to the supermarkets and stores. My main opposition against the proposition could be with the family slant, seeking the proposals to be rejected because Sunday remains one day that most families spend together as a family or, sadly, a day when in some cases of a broken relationship, one parent is able to be with their children on an access day. It is a day off work and obviously a day when the child is not at school. As in the opening remarks, I believe there is much to be said for keeping Sundays special so that families can spend time together; one day a week relaxing together. If the proposition was to be passed today then I accept the Minister has assured us many times that it is for a trial period only, but it is likely to affect lots of parents who will have to work on a Sunday, either starting immediately that this starts, and having an 18-month trial, or very likely to be for good. Like most people, I fear that the likelihood of it reverting back to what we have now is probably unrealistic. Can I suggest to Members the problems we have with the icy conditions every winter, snowy conditions, when the schools close and the alternative childcare arrangements that have to be made at very short notice. I think parents are going to have to - mothers probably - will have to find childcare provision now for their children on a Sunday



because they will have to work. Many of those who are less well-off will probably have to pay for those. They will be working in the shops and having to pay for childcare. We all know too that lots of children now have activities on the weekend, on a Sunday in particular. Just 2 weeks ago I saw dozens and dozens of children down at Gorey with the youth races on a Sunday morning during the excellent festival cycling event that was arranged by Tourism; the children down there in their full gear. This is their sport for the future: young people training, and of course, parents have football, rugby, sailing, fishing and even church. Many of the fetes used to happen on a Thursday; no longer now, there is only the half day for the central market, I think, everyone else is open and the fetes have moved to Saturdays, and even more so now on a Sunday. The proposition does not make it compulsory to open on a Sunday. Some of the smaller shops already do not open, but I cannot see for one reason why one of the large stores would refuse to open if this is changed. They are competitive businesses and they will all open up. Even, as the Minister said himself a short time ago when making the proposition, the smaller shops do not open at the moment because the bigger shops are not open. If the bigger shops open then the smaller shops will and you will have even more people working on a Sunday. The promises for staff not losing their jobs; I know that will be a concern because I have dealt with people in the past where they are expected to work on a Sunday; they have to work on a Sunday. They take the standard rate of pay and if they do not like it they leave the job: take it or leave it. If you get a plumber or electrician you are going to be paying excessive rates. These poor people that will be working in the shops on a Sunday will either have to take it or leave it. We have got the inconvenience of neighbours, and we have already spoken about that. It is up to the Constable to impose conditions, and I understand that, I have no doubt that the large stores will be the ones that open. Most people working in the tourist trade already work Sundays, in the entertainment, restaurants and emergency services; I, indeed, worked 28 years myself on Sunday-type work with one Sunday off a month, so I know what it is like. However, there is one other reason I would like to speak at this time: the opportunity to look at what we have at the moment. I have some experience, not as a trader obviously, not as a former police officer but having worked for the Parish of St. Helier and for the Constable of St. Helier following my retirement, in trying to resolve many of the Sunday Trading permit queries that he received and, of course, now issuing authority in my own Parish. I was involved with the procedure in the previous law, the Shops (Sunday Trading) (Jersey) Law, and now under current Shops (Regulation of Opening and Deliveries) laws and regulations. Although the Minister might think and argue that my comments might really help his case, I believe the Minister is bringing the proposition for different reasons, and those I want to address. By that, I do not mean anything untoward, there is no personal gain to the Minister in bringing the proposition; he is bringing it perfectly correctly in his role as Minister for Economic Development with the intent that it will help traders in difficult times. I am not hearing the traders begging for this to happen, but the Minister will know better. If I could just say, I think it was Max Bygraves who used to say: "I would like to tell you a story" and I apologise to those Members who know perfectly well the system of obtaining a Sunday trading permit: the Minister, and certainly my colleagues, the Connétables. An entrepreneur comes to my office - and, of course, it could be any one of my colleague Connétables - and says that he or she wants to make an inquiry about opening hours on a Sunday as he or she wants to start a new life for themselves and thinks there is a new way forward in their business. If you can imagine the conversation: "Good afternoon, please sit down. How can I help?" "Can I open my shop on a Sunday?" "Yes, you can, but you will need a Sunday Trading permit from the Constable of the Parish in which your shop is situated." "Are there any set conditions attached to the Sunday Trading permit?" "Well, no, they are not all the same; each Connétable has the authority to impose his or her own conditions to accompany that permit, so your conditions depend on what Parish your shop is in and things like the neighbourhood and parking." "I will be selling a whole range of products." "No problem. The range of products is not a

problem. It used to be, but now you can buy flowers on Mother's Day and you can even buy an engagement ring or wedding ring at a Sunday fair, which is held on a Sunday."

[17:00]

"My shop is quite big, though." "Ah, that is a different problem. Is it over 700 square metres of shop floor space?" "Yes, it is." "Then you will need a different Sunday Trading permit that will allow you only to open a certain number of Sundays per year." "So there are 2 Sunday Trading permits?" "Well, no, not really, there are 3. There is a general permit, a single permit and a blanket permit." "So a general permit is for a small shop, then?" "Exactly so." "And a single permit will allow me to open for one day in the year?" "No, for up to 5 Sundays a year." "And if I get a second type, then I can only open 5 Sundays a year?" "Well, yes and not quite because the Minister can and does allow large shops to open for around 4 extra additional Sundays leading up to Christmas under a blanket permit." "Okay, so that is a maximum of 9 Sundays a year?" "Well, not necessarily, because the Minister can authorise others too for any special type of occasion during the year by issuing a blanket permit." "And all this legislation relates to Sunday opening only?" "Well, no, it relates to Sundays, Liberation Day, Good Friday and Christmas Day and 26th December too; whatever day of the week it happens to fall. It used to be called the Shops (Sunday Trading) Law, but we changed it to make it less complicated and more user-friendly. I do not think we see, but you have regulations restricting opening on Liberation Day. Surely the strict regulation is curbing the very liberation you regained back on 9th May 1945. I suppose you have a point, that the day means a lot to Islanders, especially those that were there on the actual day. I do see your point though that Islanders like to keep that day special and I agree with them. I might decide to sell food for consumption instead of goods and obtain a place of refreshment licence, and then you are exempt from the Sunday Trading legislation, but need a Constable's permit to open on a Sunday: "You mean a Sunday Trading permit again?" "No, I mean a permit to open on a Sunday from the Constable." "You are joking, Constable. What is the difference?" "Well, a Sunday trading permit is £50 and a permit to open on a Sunday for a place for refreshment is £15, but of course you need to have an annual permit too from the Minister of £86." "Does that permit to open on a Sunday mean Sunday only?" "No, it also means Good Friday and Christmas Day, but you are okay on Liberation Day as it does not apply to that day, unless it falls on a Sunday." These are the different permits that are issued annually. Well, yes, but be careful because the general Sunday permit for smaller shops on a Sunday, a single permit allowing you to open 5 days goes from January to December and the permit ...

**The Deputy Bailiff:**

Could you come back to the proposition?

**The Connétable of St. Martin:**

Yes, sorry, Sir. I am trying to get across the complications that we have and was trying to address Sunday Trading, as a Constable, and this is what goes on. I was going to say: "Thank you, Constable. I think I will go into politics and have Sundays off." The conversation, this clearly could apply to any visitor walking on the Island, not knowing what is going on, and we find it very difficult, I find it difficult as a Constable, although I have only got one large shop in the Parish of St. Martin. In conclusion, I am not hearing strong and forceful views from the shop owners to open on a Sunday, but the Minister knows different or has had different responses. I am not hearing strong and forceful pleas from the public for the shops to be open. I cannot see by opening on another day every week is going to help the economy bounce back, but I may be wrong. I think traders do want some change, but I am not sure how they go about that. If the Minister had come to this Assembly today advising us that the ferries and the flight operators were bringing thousands of additional tourists to the Island every week to shop on the Island, I would do it. We have got the

same amount of people that are going to be doing the shopping. The Constable that will be most affected - and we have heard from the Constable of St. Helier this afternoon - he is against this and he is the one that is going to suffer the most, a trial period where we are going to be seeing illegal parking throughout the Parish of St. Helier, because I do not think there is going to be additional parking wardens working at the weekend, and if the car parks are free, how can it be judged to be a fair and equal opportunity for other shop users? In conclusion, I think the Minister will realise I am not supporting the proposition this afternoon. I am sorry I have gone on, but I think there is a need for a change in the Sunday legislation and it could even be a little stricter because at the moment it is interpretation and I find it very difficult, and I think Members now this afternoon will understand what the Constables have to put up with.

### **The Deputy Bailiff:**

We have now had 4 speeches against this proposition. They have covered quite a wide range of material. If any other Member is thinking of speaking against the proposition, could he or she please give careful thought as to whether he or she has got anything new to add to these objections? Senator Farnham.

### **7.1.5 Senator L.J. Farnham:**

Just for avoidance of doubt, Members may know that for many years that I was a principal director of a number of retail businesses. That is no longer the case, having relinquished my interests in 2011, although Members will know that I am a director of a hotel. I just wanted to clear that as a matter of record. The last 3 or 4 speeches really have frustrated me insofar as it seems that in their strong beliefs, some Members will say pretty much anything to scare people into moving in a direction that perhaps the majority of Islanders in our modern society might wish certain business to go and new opportunities to be created and new services to be provided. This sort of picture of working/middle-class utopia that is being presented is not necessarily representative of our whole society. In fact, I know my children could not wait to get away from us on a Sunday and spend Sundays on their own doing their own leisure activities, and in the real world, that is what happens. I have members of my family that live in the U.K., my children are just finishing their education over there, and when we go over to see them, we often go at a weekend and town centres, take Bath, for example, some of the shops - not all of the shops - those that decide to open are open for a few hours on a Sunday and it is very nice to have the choice of going in to utilise those shops. Now, the wilds of St. Ouen will still be there on a Sunday, all the beautiful natural beauty of the Island will still be there for everybody to enjoy. New opportunities for tourism: let me just talk about the tourism industry - and I was very privileged to have represented that industry as the head of their association until earlier this year - who would support this, generally speaking. There is no strong lobby from the tourism industry for this, but if, for example - and the Constable of St. Martin alluded to the fact - new opportunities were created to market the Jersey town centre as a shopping destination for day trippers or weekenders on a Sunday and 1,000 or 2,000 or 3,000 or 4,000 or whatever we can build it up to could be brought in, then there is most definitely a benefit to be had there. Now, Members may be surprised now to learn that I am probably not going to be able to support this, simply because I think an 18-month trial period is far too long, and with hindsight, I would have amended that to try it over a much shorter period, maybe 3 months, to get an idea, which might have been more palatable to Members. Can I also say, another thing that is of concern to the tourism industry is perhaps the impact on employment legislation, because as some Members have already said, that families and individuals want to enjoy their leisure time on a Sunday, Members will understand that businesses in the tourism and leisure sectors enjoy their busiest times on Friday and Saturdays and Sundays, and if those areas of commerce were forced then to suddenly start paying double time or whatever, it would have a very severe impact on those industries. I think the tourism industry would probably rather stay with what we have got than have to be faced with

suddenly an introduction of employment legislation, because for many decades workers in the hospitality sectors have worked shifts, as they do in various other businesses, and many people who work in those sectors like working weekends and enjoy quieter days off in the week. It is a shame that it is an 18-month trial period because I think if the States were to agree this, 18 months is far too long for a trial period. It would probably become the norm and then it would be difficult to rescind after 18 months, so it is a great shame that the Minister has decided to bring it. I am not sure whether he might want to bear that in mind, and only a few Members have spoken, but I get the feeling that the Assembly will not largely be in favour of this and perhaps other Members might like to comment on whether there might be more pleas to consider this if it was a much shorter trial period, and the Minister might wish to think about just taking it back and having a rethink.

#### **7.1.6 The Deputy of Trinity:**

I will be very brief. I take on your comments. One area I will focus on is family life, being one of the few Members in this Assembly that has worked 35 years of my professional life working weekends, and I can say with hand on my heart that it is detrimental to family life. You miss out the important bits of sharing with that family, and with the care industry, you know that you are going to do it, you come into that well aware, but when it affects your family life, it is a struggle and it is a struggle to make sure ... that you over-compensate, so I will end there. I really can say that it is detrimental to family life and I urge the Minister for Economic Affairs, who did not mention much about family life, to rethink it, because once you have missed those important stages with your children, whether it is taking that first step, being part of them on the beach, showing them how to surf or whatever, you will never, ever get that time back again, so I urge the Minister for Economic Affairs please to reflect on that. I will finish there.

#### **7.1.7 Senator A. Breckon:**

Just a few points. A number of years ago, I got charged with doing a survey on this, and a question that Members maybe should apply their minds to, and something was asked is: should shops open on a Sunday? That is a framed question, because of course some shops should, say chemists and paper shops and other things, and there was a view that some shops should not, so that it was a qualified yes or no. Then it was: "Is there a proven need?" and where was the evidence. When I did this survey, it was not conclusive either way. But if we look at the High Street and what is around us, I was interested in Senator Routier's description of some of the shops. I must walk around with my eyes shut, because they were news to me. It looked to me to be a very flowery description, because if we look around, we have got phone shops, we have got pound shops, we have got estate agents within close proximity of what could be considered the High Street. The Minister mentioned footfall, but this is not the sort of stuff that is going to generate a lot of footfall, and if we think of a cold February Sunday, who is going to be enthused or excited enough to come to town for this? I do not think it will happen. The counterbalance to that is the growth in the internet, which is now the competition. The other thing that has been mentioned is people working in retail, and of course what will happen, contracts will change from 5 days out of 6 to 5 days out of 7, that will just change to new employees and perhaps some existing that are not well-organised or in a position to negotiate this, so I do not see how people opting out can be put into a law for the future. I just do not think that will happen. The other thing where I see a problem with this, I think a trial scheme would be problematic, because where the real lever is is supermarkets.

[17:15]

Again, I was interested in Senator Routier's quote, but of course there is a vested interest there, because if the 2 big supermarkets do not open here, then the third one, the U.K. operator, does not open either, but the other 2 are trading not from corner shops, but a bit bigger than that, so there is a serious vested interest. When I read that article, it is certainly an issue. Of course, many people

work unsociable hours, and in a former life I was on duty 7 Christmas Days in the 1980s and that is just the way it was. But again, that was at the Gas Company, and there are other people in utilities and emergency services and at the harbour and the airport who provide essential services and we should be grateful for them, but they are essential services, and the same with our own public services, who turn out when we have extremes of weather or whatever it may be to sort things out. But they are, I would say, the cases where people are devoted to that and it does not apply, in my mind, to shops. People are not going to be enthused or excited enough in this trading period or any other to do that because I do not think the business is there, we are not just going to turn up on a Sunday and spend all sorts of money that we would not spend in the week. I just do not think it is going to be there, and for those reasons, I will not be supporting this.

**Deputy R.G. Le Hérissier:**

Given your highly commendable approach to speeding up business, can I ask the Minister if he is prepared to withdraw the proposition? **[Approbation]**

**Senator A.J.H. Maclean:**

I do not want to deprive Deputy Southern of his speech.

**Deputy G.P. Southern:**

It will be brief.

**The Deputy Bailiff:**

Are you finished, Senator Breckon?

**Senator A. Breckon:**

Yes.

**7.1.8 Deputy G.C.L. Baudains of St. Clement:**

Having listened to the Ministers who have spoken so far, I have to say this collective responsibility seems to be somewhat elusive. I would also suggest that any Member who might be in favour of this proposition perhaps might consider coming in next Sunday so we can make some inroads into our agenda. After all, we should set an example. This is a trial, but I am concerned that once it has started, it is going to be somewhat difficult to curtail. I have several problems, but I will be very brief. Even if shops stay open 24 hours a day 7 days a week, they are still only going to sell the same amount of goods. Prices will be the same, the choice for customers will remain the same and the extended opening is not going to deter people from shopping online, because they shop online for different reasons. But in my view, there are a number of downsides: first of all, the economic issue - the shop paying for light, heating, cleaning, wages, *et cetera*, for 6 days a week now have to pay 7 days a week for roughly the same sales. It does not make commercial sense. The problem is even if the shop has a decreased profit by virtue of that, they are still going to feel obliged to open because otherwise they are going to be outdone by their competition who will be open. It is a race to the bottom, no one benefits, not the shop, not the customer, not the nearby residents, as we have heard from the Constable of St. Helier, and not the shop workers, who are my major concern here, because with today's zero-hour contract culture, I am not sure that the opt-out situation is a reality. It seems to me if it did work, it would probably draw in more low-wage immigration than employ local people. If it did not work, then in my view, as I say, with today's zero-hour culture, I can see that the option is not going to exist. You are going to be told: "Well, if you do not come in on Sunday, do not bother to come in at all."

**The Deputy Bailiff:**

Deputy, I do not like to interrupt you, but so far every point you have made has been made already.

**Deputy G.C.L. Baudains:**

Good, Sir. Then I am just reinforcing what other people have said and I will sit down.

**The Deputy Bailiff:**

Standing Orders say you are not to repeat unduly what has been said already and we have already had all that. Connétable of St. John, have you got anything new to say?

**7.1.9 The Connétable of St. John:**

I hope I am not going to repeat anything that has been said, but I am really concerned, being probably the only industrial Parish in this Chamber being represented, given we have a large number of blue-collar workers within our Parish, within the quarries and within other areas. That said, if a Parish where there is not a quarry, like St. Mary, decides that they are going to give a permit to the quarry to open so people can do their D.I.Y. (do it yourself) on a Sunday and go and get their blocks or their concrete, *et cetera*, it means obviously the quarries in St. John would probably have to reciprocate. We would find large concrete mixers and the like trundling through the Parish on a Sunday also, which worries me no end, because at the moment we just had a survey done outside the Parish Hall, something 7,000 movements per day going east and west and therefore to have that going through on a Sunday, it would be another nightmare. Also we have a gas-bottling plant. Because it would be a trading day, I could see people wanting to go and top up with their gas bottles, *et cetera*, and therefore once again that would create more heavy traffic on the road. As far as I am concerned, I cannot support this. I am not going to say any more, but I think I have said sufficient. You know where I am coming from.

**7.1.10 Deputy J.A. Hilton:**

I will be very brief indeed. I would just like to say I support all the arguments put forward by the St. Helier representatives and my colleague, Deputy Green. I just wish that all of the male Members in this House had taken a leaf out of the book of the female Members and kept their speeches a little bit shorter. [Approbation]

**7.1.11 Deputy G.P. Southern:**

This proposition has had its hour to strut its stuff upon the stage and it is time for it to withdraw. I am surprised the Minister did not withdraw it before this debate and I am amazed that he has not already withdrawn it. Please, I beg you, Minister, withdraw.

**7.1.12 Connétable L. Norman of St. Clement:**

I see the prophets of doom are out again. They were out in 2010 and they were out in 2011 when we debated the current law and regulations and, unless I have missed something, I do not think that law and the regulations made under them have stopped, to use a colloquialism, Sunday remaining special. It is still special, because when we stop and think about it, who opened? What stores opened under the old Sunday Trading law? It was the small Co-ops, the Spas, the Icelands, the small corner shops, the smaller M&S stores. Now that we have the new law, who opens? Exactly the same list of stores and perhaps one or 2 others. The difference of course is now those stores can sell anything they normally sell during the week, whereas previously they could not. It is ironic, is it not, under the old law, all the large shops, the big supermarkets at St. Peter, Grand Marché and so on, could have opened anyway under the old permit system, because they were food shops and they were on the State-approved permitted list, so they could have done, but those chose not to and there is no indication that they are going to choose to open should this law be changed, as I hope it will be. The doom and gloom merchants: there are those who have spoken about family life and family values and I respect those views totally, because we all back family life and family values, do we not, but is it not interesting how families choose to spend their Sundays, or many of them, because

the shops that do open now, and the Co-op in particular is one that I know about, have the heaviest footfall, more people going into those stores, families going into those stores on a Sunday than on any other day, even though Deputy Green might not wish them to. One of the reasons of course is that people work during the week, at least one of the partners works, very often both of the partners will be working during the week, so perhaps the weekend is the only time they can go out together shopping and they take opportunities that they have got at the various stores that open now and were opening, have been opening for generations. Staff: of course staff are important, but anyone who has done their research will know that the major stores that do open on a Sunday, they have a long list of people, existing staff and people who are not currently working in those firms, who want to work on a Sunday, who are looking for the opportunity to do that. Of course there are some that do not, but they would not have to force anybody to work, because they already want to do that. I am just amazed that the Constable of St. Helier is not supporting this proposition and is not supporting it on the grounds that if presumably Voisins and De Gruchy opened on a Sunday there will be lesser problems, there will be great parking problems, they would have to employ more people, but during the same speech, he told us that he is quite happy to have a Sunday market throughout the town every Sunday. That is going to encourage people into town, so there will be parking problems, there is going to be litter problems and there is going to be staff working. It is just absolutely crazy to me that one is acceptable and one is not. Really, what difference is it going to make to the parking problems in town, the litter problems in town if B&Q open on a Sunday, if the garden centre in St. Martin opens on a Sunday, the garden centre in St. Peter opens on a Sunday, because it is going to give families more things to do together on a Sunday than they have now? If this gets defeated and the Constable of St. Helier votes against it, I hope that he will make sure that the large stores that are already ignoring the Sunday Trading law in his Parish do not open and I hope that those that open on Christmas Day will be stopped from opening this year, as they were not stopped from opening last year. This is a bold proposition, it is a sensible proposition and I hope the States will accept it.

#### **7.1.13 Senator F. du H. Le Gresley:**

Something new: Employment Law. The proposer certainly did write to me and asked if we could bring in law changes to accommodate the option of Sunday workers or Sunday shop workers not being required to work if they opt out. We have informed them that this would be a primary law change of the Employment (Jersey) Law, which would take some considerable time and certainly could not be in place for the trial regulation. The U.K. law on this is quite different from anything we have got in Jersey and if we used the U.K. as a model, it would cover any retailer over 280 square metres as opposed to the 700 square metres that we are talking about mainly today, but to reassure Senator Farnham, in the U.K. catering, including restaurants and bars, are not covered by the Sunday working legislation. I would finish by saying in a former life, as a former Deputy who used to be interested in motorbikes used to say, I worked in a shop, owned a shop and I worked, I think, a total of 450 Sundays and I do not recommend it.

#### **The Deputy Bailiff:**

Very well. If no other Member wishes to speak, then I call on the Minister to reply.

#### **7.1.14 Senator A.J.H. Maclean:**

I think that it is fairly clear to see the tea leaves with the mood of Members over this proposition, but I would just say that although I was fairly clear before we brought the proposition and had the debate of what the potential outcome was going to be, as I alluded to in my opening remarks, it is, in my view, incumbent upon me with my role for Economic Development to propose this proposition. I think it is right that we seek to support the retail sector in the current condition that it is in, the challenges that it is facing and I made the point - and it is an important point, I believe -

that Sunday Trading is not all that we were proposing, far from it. It is one small measure of a package of measures that are necessary if we are going to seek to turn the retail sector around, if we are going to arrest the loss of jobs that we have seen in the last few years, 390, as I pointed out, since 2011. We can see comparisons between Jersey and other jurisdictions. I did mention Estonia. It was interesting, in my view, the way technology there has not dented a retail sector that operates 7 days a week from early in the morning until late at night. I was also interested when I met the Mayor from Gotland over last week, an island of just 57,000 people, much more aligned, one might say, to ourselves, and equally, they have trading 7 days a week, early in the morning until late into the evening, and it was noteworthy there as well that their retail sector was performing much, much more strongly. Nevertheless, I understand the sensitivities around this particular issue as far as Members are concerned, particularly with regard to employees. I would just say, and it was a point the Constable of St. Helier raised when he tried to get this proposition referenced back at the very start; he raised the question about employees and I should just say to him that the purpose of the trial was to try to establish issues around employees and all the other points that Members have raised.

[17:30]

In fact, the Jersey Annual Social Survey did in fact ask questions around Sunday Trading and the impact on employees, and that survey, 25 per cent of people came back and said they opposed Sunday Trading, 24 per cent supported it without restrictions. These were employees, I hasten to add, those who perhaps want to work on a Sunday and perhaps others who wish to earn some additional money from the opportunities that would be presented, and 51 per cent of the Jersey Annual Social Survey supported working on Sundays - that is the employees, I emphasise again - but with certain restrictions. We listened to that and other points that were raised in the consultation to adapt this proposition to take into consideration factors that were going to be important to as many people as we could, but the Annual Social Survey and the split I have just mentioned to Members demonstrates the challenge that I felt as Minister for Economic Development with regard to this matter, because again, it was very evenly split. Just about every consultation that has been held to date on this matter has gone either slightly one way or slightly the other. What I find interesting is that the representation here in this Assembly seems to be much more focused in the anti than was the case when the public were consulted, but that is just one of those things, I suppose. Nevertheless, one final point I would make is Deputy Southern was asking a moment ago would I withdraw. Clearly, that would have been the easy thing to do. I could tell very clearly Members' views on this particular topic. I was not minded to withdraw, because I do think it is important that we go to the vote. This is something that has been around for some time, Sunday Trading. I think if there is a vote here and it is absolutely categoric, then it will make a clear case for or against as far as Sunday Trading, expanding it to about 20 more stores, the large retailers. Those are the ones who are largely prevented from trading on a Sunday at the moment. But I think it is important that Members have the opportunity to vote and therefore I do not consider this the easy option either, bringing this proposition or indeed going to the vote, because I can see the way in which it is going. The one final point I would make, the Constable of St. Martin did point out the complexities of the current system. I would say to him that we have amended the current regulations. They are significantly simpler than they were before. We have removed the Schedule of Goods, for example, which I am sure created all sorts of headaches for the Connétables, and I would also say to Members that if they think our Sunday Trading laws are complicated, you should cast your eye slightly to the north to Guernsey, where they have 13 different types of Sunday Trading permit and each one of those is far from simple. So we have been heading, I would suggest, in the right direction. We do need to find ways to support our retail sector, which is struggling. Clearly it does not appear from Members that it is going to be this particular trial. I had hoped that the trial itself would prove and answer many of the questions that



Members raised. The trial, as I have just pointed out, was a defined period. Senator Farnham, for example, said if we have an 18-month trial, it is too long, what will end up happening is at the end of the 18-month period, it will carry on by default. It cannot. The way this is crafted is quite simply that we are suspending the regulations for the trial period, so at the end of 2015, 31st December, then the suspension will end, and as such, the *status quo* would continue. It would not be a case of bringing this in by stealth or by default. I think I will leave it there and I will invite Members to express their views by a vote.

**Senator L.J. Farnham:**

I just wonder if I might ask a point of clarification? If, for example, it became apparent that some time into the 18-month trial it was not being successful, could the regulations be reinstated?

**Senator A.J.H. Maclean:**

I think the purpose of the trial, the Senator mentioned 3 months. Frankly, there would be no data of any value, if I may say so, from a 3-month trial period. In truth, we probably needed longer than 18 months, but we struck what was deemed to be a reasonable compromise to ensure that first of all there was a full year, 12 months, for the trial to run and then a period to consider the results of the trial. That was the purpose for the 18-month period, which I think was reasonable and measured, to ensure we get a fair and consistent view of all the important points, many of which Members have raised.

**The Deputy Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on the principles of the Draft Shops (Regulation of Opening) (Amendment) Regulations and I ask to the Greffier to opening the voting.

<b>POUR: 7</b>	<b>CONTRE: 34</b>	<b>ABSTAIN: 1</b>
Senator P.F.C. Ozouf	Senator P.F. Routier	Senator L.J. Farnham
Senator A.J.H. Maclean	Senator A. Breckon	
Senator P.M. Bailhache	Senator S.C. Ferguson	
Connétable of St. Clement	Senator B.I. Le Marquand	
Connétable of St. Brelade	Senator F.du H. Le Gresley	
Deputy R.C. Duhamel (S)	Senator I.J. Gorst	
Deputy of St. John	Connétable of St. Helier	
	Connétable of Trinity	
	Connétable of St. Peter	
	Connétable of St. Lawrence	
	Connétable of St. Mary	
	Connétable of St. John	
	Connétable of St. Ouen	
	Connétable of St. Martin	
	Connétable of Grouville	
	Deputy R.G. Le Hérisssier (S)	
	Deputy J.A. Martin (H)	
	Deputy G.P. Southern (H)	
	Deputy of St. Ouen	
	Deputy J.A. Hilton (H)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy K.C. Lewis (S)	
	Deputy M. Tadier (B)	
	Deputy E.J. Noel (L)	

		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. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy N.B. Le Cornu (H)		
		Deputy S.Y. Mézec (H)		

**The Deputy Bailiff:**

The adjournment is proposed. The States now stand adjourned until 9.30 a.m. tomorrow morning.

**ADJOURNMENT**

[17:36]