

2.8 Deputy G.P. Southern of the Minister for Treasury and Resources regarding legal advice sought on ITIS (Income Tax Instalment System):

In answer to questions on the 17th January 2006, the Minister stated that there was the possibility of a challenge under human rights legislation if a system was introduced whereby all new entrants to ITIS remained on a current year tax-paying basis but that no formal legal advice had been obtained. Would the Minister advise whether such advice to clarify the matter will or has been sought?

Senator T.A. Le Sueur (The Minister for Treasury and Resources):

This is a sort of hypothetical question. I have no intention of maintaining all new entrants on a current year basis and so I see little point in asking the Law Officer's Department advice on a policy which I have no intention of introducing. I think they have got enough to do advising on policies which are being introduced without spending their time on matters which are not under consideration.

2.8.1 Deputy G.P. Southern:

I really cannot accept that as an answer. If the Minister is justifying a decision to move everybody to remain on past year taxation and not to consider the possibility of eventually producing current year taxation, if he uses that as a reason then surely he must seek advice. If he says there is a possibility of a human rights challenge, he must make clear whether or not that is the case and ask advice, surely. Does he not agree?

Senator T.A. Le Sueur:

I think we exhausted this one at the session on the 17th January. It would be inequitable in my view for a situation to arise where, over a period of time, with 2 people doing the same job in the same place, one would be assessed on a current year basis and one on a preceding year basis. I believe that would be inequitable. It is not a requirement of the Minister or from a Committee that they have to seek legal advice on human rights' compliance. It is the obligation of a Committee, or now the Minister, to satisfy himself that the legislation is human rights' compliant. In my view, it would be inequitable for people to be on different situations for a continuing period of time and on that basis I am not pursuing that policy.

2.8.2 Deputy G.P. Southern:

Will the Minister say from which institution he obtained his degree in law?

Senator T.A. Le Sueur:

I wish I had not.

2.8.3 Deputy P.V.F. Le Claire of St. Helier:

Probably under the new rules we can get into this issue. ITIS and the submission of forms: business people are telling me that the ongoing administrative burden of filling these forms in where there is no tax due are now at 2 or 3 hours for each employer to submit these forms every month is unduly burdensome and will the Minister look to see that a system can be put in place where the only need for submission of administration is done when there was a change of circumstances rather than every month when everything stays the same. Surely it must be a burden at both ends of the system.

Senator T.A. Le Sueur:

You make a good point. It is in hand and we are simplifying the system but I would question that it should not take 3 hours to fill in a nil return.