

STATES OF JERSEY



PUBLIC HOLIDAYS AND BANK HOLIDAYS: DESIGNATION OF 26TH DECEMBER 2009 (P.173/2009) – COMMENTS

**Presented to the States on 30th October 2009
by the Council of Ministers**

STATES GREFFE

COMMENTS

1. The Council of Ministers does not support this proposal for the reasons cited below, and recommends that the States reject this proposition.

Background

2. As a result of the approval by the States of P.151/2009 (“Draft Public Holidays and Bank Holidays (Jersey) Act 200-”), it has already been agreed that a bank holiday will be created on 28th December 2009, in order to compensate for the fact that Boxing Day occurs on a Saturday. This has been achieved by moving the designation of “Public Holiday” from 26th December for 2009, to 28th December.
3. To assist members it is thought useful to outline the present situation for employees in Jersey –
 - **Private sector day workers** working Monday to Friday will enjoy the Boxing Day public holiday on Monday 28th December. If the change had not been made many would **not** have received the benefit of a holiday for Boxing Day as it would have occurred on a normal ‘day off’, being the Saturday.
 - **Public sector day workers** working Monday to Friday will also enjoy the Boxing Day public holiday on Monday 28th December. If the change had not been made they would **still** have received the benefit of a holiday for Boxing Day as the holiday would have occurred on a normal ‘day off’, being the Saturday, and they would have been entitled to a day off in lieu. Therefore they are in the same position as would ordinarily have been the case, and are no worse off.
 - **Shift workers in the States**, by custom and practice, will receive public holiday conditions (payment at double time and day off in lieu) if they are required to work on Saturday 26th December or Monday 28th December (but not both).
 - **Private sector day workers** who work Monday to Saturday (normally in the retail industry) will enjoy the holiday on Monday 28th December. Whilst it is accepted that in theory it would be inconvenient if their Christmas holiday is spoilt by having to work on Saturday 26th December, it is by no means clear that many shops will generally open on that day. Feedback received by the Economic Development Department is that retailers are on the whole not planning to open on that day, apart from a handful of U.K. multiples who tend to employ staff on a ‘5 out of 7’ basis. Convenience food stores may well open for a limited period, but these stores already open on a 7 day basis with shift staff. It should be considered as to whether such workers would ordinarily be required to work on Boxing Day, no matter which day it arose, due to such events as Boxing Day Sales.

4. Therefore it is considered that the arrangement agreed by the States on 8th October in connection with Boxing Day this year, whilst not ideal for every working scenario, is generally fair.

Impact of the proposition

5. Reference has been made in the report to P.173/2009, as to knowing the cost of everything and the value of nothing. Members do need to recognise that there will always be a requirement for certain employees in both the public and private sectors to work on public holidays, whether this is Easter Sunday, a May Bank Holiday or Boxing Day. The key matter is to ensure that the system is as balanced as practicable to take account of the disruption that does occur to family life as a result. It is certainly the case that public sector shift workers, such as staff in the emergency services, are already well compensated for the disruption that occurs from their requisite working patterns.
6. Indeed, it needs to be considered that the nature of shift work means that days of the week are not relevant to their work patterns. These could more appropriately be defined as 'work days' and 'days off'. Sometimes 'days off' will coincide with weekends and public holidays, and sometimes they will not. However the remuneration package, certainly in the public sector, already takes account of the number of public and bank holidays, and also builds in an element of shift pay in recognition of this disruption to family life. Therefore the proposals recently put in place by the Chief Minister do not impact upon their remuneration package. If a shift worker happens to be required to work on a public holiday then they will receive a day off in lieu and double pay as recompense for this additional disruption.
7. Therefore shift workers are generally already protected financially, and their arrangements have not been amended as a result of P.151/2009.
8. The result of P.173/2009 will be twofold. Firstly, it will create an additional public holiday on 26th December. That is in addition to 28th December. It will have no bearing on whether employees will be required to work on 26th December or not. It will just create another day designated as a Public Holiday.
9. The impact that this would cause needs to be quite carefully thought out. It is not clear what would happen for private sector day workers employed on a Monday to Friday basis, but the impact would be quite considerable for the public sector.
10. If the analysis is initially restricted to public sector day workers (working Monday to Friday), they would, under this proposal receive a further day off in lieu. Hence as well as getting the Saturday as a normal day off, they are already receiving the Monday as a public holiday. However under P.173/2009, they would then be entitled to a ***further*** day off in lieu. Therefore for one day of holiday they would receive the Saturday, the Monday and then a further day to take at their own volition.

11. Cost has been referred to in the report in a variety of guises, however there is obviously a cost implication to this proposal, and it does need to be clearly understood –
- the cost of doing as proposed to the public sector would be of the order of 0.5% of the paybill – approximately £1.5 million. This is because under collective agreements any employee working on 26th December would be entitled to payment at double time and a day off in lieu; and any employee (day worker or shift worker) who is not expected to work that day will be entitled to a day off in lieu if 26th December is declared a public holiday. Employees would enjoy this in addition to public holiday conditions on the following Monday – 28th December –
 - Clearly, there will also be potential costs for private sector employers, very largely depending on their contractual arrangements appertaining to public holidays.
 - In the U.K., when Boxing Day falls on a Saturday, the holiday is automatically moved to the Monday – i.e. as a substitute, not additional holiday.
12. It would be a requirement for departments to fund any cost arising from this proposition out of their existing budgets. It is unclear whether this could be achieved at such short notice, but for example, the impact upon the Health budget would be an additional, unbudgeted cost of £500,000 at the very minimum given the high proportion of shift workers employed in that department. It is unclear whether this could be achieved without cutting services as a result.

Summary

13. In conclusion, the Council of Ministers considers that the existing position is a reasonable and fair position for the vast majority of the Island workforce, and should not be amended. Current arrangements already take account, in the main, of disruption to family life for those required to work on 26th December. The financial consequences of this proposition are significant and should not be underestimated. For all of these reasons, the Council of Ministers asks for the support of Members in rejecting the proposition by Deputy S. Pitman.