

**THE STATES assembled on Tuesday,
17th May 2005 at 9.30 a.m. under
the Presidency of the Deputy Bailiff,
Michael Cameron St. John Birt Esquire.**

All members were present with the exception of –

Senator Jean Amy Le Maistre– out of the Island
Senator Leonard Norman – out of the Island
Senator Michael Edward Vibert– out of the Island
Senator Edward Philip Vibert– out of the Island
John Le Sueur Gallichan, Connétable of Trinity– out of the Island
Daniel Joseph Murphy, Connétable of Grouville – out of the Island
Alan Breckon, Deputy of St. Saviour– ill
Jacqueline Jeannette Huet, Deputy of St. Helier– out of the Island
Terrence John Le Main, Deputy of St. Helier– out of the Island
Gerard Clifford Lemmens Baudains, Deputy of St. Clement– ill
Francis Gerald Voisin, Deputy of St. Lawrence– out of the Island
Celia Joyce Scott Warren, Deputy of St. Saviour– ill.

Prayers read by the Greffier of the States

Falkland Islands Government – letter of good wishes on 60th Anniversary of Liberation Day

The Deputy Bailiff conveyed to members the good wishes of the Legislative Council and people of the Falkland Islands on the occasion of Jersey's 60th Anniversary of the Liberation of the Island from occupying forces, which had been received in a letter dated 9th May 2005, from the Councillor Norma Edwards on behalf of the Falkland Islands Legislative Council.

Subordinate legislation tabled

The following enactments was laid before the States, namely –

Nuclear Safeguards (Notification) (Jersey) Order 2005. R&O 37/2005.
Policy and Resources Committee.

Matter presented

The following matter was presented to the States –

Jersey Competition Regulatory Authority appointments: report. R.C.24/2005.
Presented by the Economic Development Committee.

THE STATES ordered that the said report be printed and distributed.

Arrangement of public business for the next meeting on 24th May 2005

THE STATES granted leave to the President of the Policy and Resources Committee to defer consideration of the following matter lodged “au Greffe” set down for consideration at the next meeting on 24th May 2005 –

Draft States of Jersey (Amendment) Law 200-. P.83/2005.
Lodged: 26th April 2005. *(re-issue)*
Policy and Resources Committee.

Draft States of Jersey (Amendment) Law 200- (P.83/2005): amendment.
Lodged: 10th May 2005.
Senator S. Syvret.

P.83/2005. Amd.
(*re-issue*)

**Draft Employment Relations (Jersey) Law 200- P.19/2005
Comments, Addendum and Amendments**

THE STATES commenced consideration of the Draft Employment Relations (Jersey) Law 200-, and adopted the preamble.

Members present voted as follows –

POUR: 34

CONTRE: 1

ABSTAIN: 0

Senator F.H. Walker
Senator T.A. Le Sueur
Senator P.F. Routier
Senator P.F.C. Ozouf
Connétable of St. Martin
Connétable of St. Ouen
Connétable of St. Saviour
Connétable of St. Brelade
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of St. Lawrence
Connétable of St. John
Deputy of Trinity
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy of St. John
Deputy M.F. Dubras (L)
Deputy J.L. Dorey (H)
Deputy P.N. Troy (B)
Deputy L.J. Farnham (S)
Deputy R.G. Le Hérissier (S)
Deputy J.B. Fox (H)
Deputy J-A. Bridge (H)
Deputy G.P. Southern (H)
Deputy J.A. Bernstein (B)
Deputy S.C. Ferguson (B)
Deputy of St. Mary
Deputy of St. Ouen
Deputy P.J.D. Ryan (H)
Deputy M.A. Taylor (C)
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy G.W.J de Faye (H)

Senator W. Kinnard

THE STATES adopted Articles 1 to 21.

THE STATES rejected an amendment of Deputy Geoffrey Peter Southern of St. Helier that the following new Article 21A be inserted after Article 21, but before Part 4-

“21A Restrictions on Interim Relief

(1) Where –

- (a) an application for an injunction is made to a court in the absence of the party against whom it is sought or any representative of that party, and
- (b) the party claims, or in the opinion of the court would be likely to claim, that the party acted in contemplation or furtherance of a trade dispute,

the court shall not grant the relief sought unless satisfied that all steps which in the circumstances were reasonable have been taken with a view to securing that notice of the application and an opportunity of being heard with respect to the application have been given to the party.

(2) Where –

- (a) an application for interim relief is made to a court pending the trial of an action, and
- (b) the party against whom it is sought claims that the party acted in contemplation or furtherance of a trade dispute,

the court shall, in exercising its discretion whether or not to grant the relief, have regard to the likelihood of that party's succeeding at the trial of the action in establishing any matter which would afford a defence to the action under Article 19 (protection from certain tort liabilities).",

and that the subsequent provisions and cross-references be renumbered accordingly.

Members present voted as follows –

POUR: 6

Senator S. Syvret
Senator W. Kinnard
Senator P.V.F. Le Claire
Deputy of St. Martin
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)

CONTRE: 27

Senator F.H. Walker
Senator T.A. Le Sueur
Senator P.F. Routier
Senator P.F.C. Ozouf
Connétable of St. Martin
Connétable of St. Ouen
Connétable of St. Saviour
Connétable of St. Brelade
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of St. John
Deputy of Trinity
Deputy R.C. Duhamel (S)
Deputy of St. John
Deputy M.F. Dubras (L)
Deputy J.L. Dorey (H)
Deputy P.N. Troy (B)
Deputy R.G. Le Hérisier (S)
Deputy J.B. Fox (H)
Deputy J-A. Bridge (H)
Deputy S.C. Ferguson (B)
Deputy of St. Mary
Deputy of St. Ouen
Deputy of Grouville
Deputy of St. Peter
Deputy J.A. Hilton (H)

ABSTAIN: 0

THE STATES adopted Article 22, as amended by the Employment and Social Security Committee, that afte:

paragraph (3), there be added the following paragraph–

- “(4) In deciding whether or not a party to the dispute is acting unreasonably in the way in which that party is or is not complying with an available procedure in a relevant handbook for employees, regard shall be had to whether or not the handbook has been agreed by or on behalf of the parties to the dispute, but this paragraph does not limit the generality of paragraph (2)(b).”

having granted leave to Deputy Geoffrey Peter Southern of St. Helier to withdraw an amendment to Article 2 (3)(a) that for the words “, *a relevant contract of employment or a relevant handbook for employees*”, there be substituted the words “*or a relevant contract of employment*”.

THE STATES adopted Article 23, having granted leave to Deputy Geoffrey Peter Southern of St. Helier to withdraw an amendment to that Article that after paragraph (3), there be added the following paragraphs–

- “(4) In a case where the Tribunal has made a declaration under paragraph (1) that a trade union is entitled to be recognized by an employer in accordance with an approved code of practice, the Tribunal may make an additional declaration.
- (5) An additional declaration may be made under paragraph (4) if–
- (a) it is claimed that the employer has failed to recognize the trade union; and
 - (b) the Tribunal is satisfied that the claim is well-founded.
- (6) An additional declaration may provide for the incorporation into the individual contracts of employment of the employees to whom the additional declaration applies of the terms of the additional declaration.
- (7) The employees to whom an additional declaration may apply are those in respect of whom a declaration has been made under paragraph (1) that a trade union must be recognized.”

THE STATES adopted Article 24.

THE STATES adopted Article 25, as amended by the Employment and Social Security Committee, that in sub paragraph (c), there be deleted the words “*applicable to or*”, having rejected an amendment of Deputy Geoffrey Peter Southern of St. Helier that in Article 25, there be inserted in paragraph (1), after the words “*this Law*”, the following words –

“(being a code of practice that is consistent with the Freedom of Association and Protection of the Right to Organise Convention (No. 87) and the Right to Organise and Collective Bargaining Convention (No. 98 of the International Labour Organisation)”.

Members present voted as follows –

POUR: 7

Senator S. Syvret
Senator W. Kinnard
Senator P.V.F. Le Claire
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy J.A. Bernstein (B)
Deputy J.A. Hilton (H)

CONTRE: 31

Senator F.H. Walker
Senator T.A. Le Sueur
Senator P.F. Routier
Senator P.F.C. Ozouf
Connétable of St. Martin
Connétable of St. Ouen
Connétable of St. Saviour
Connétable of St. Brelade
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of St. Helier
Connétable of St. John
Deputy of Trinity

ABSTAIN: 0

Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy of St. John
Deputy M.F. Dubras (L)
Deputy J.L. Dorey (H)
Deputy P.N. Troy (B)
Deputy L.J. Farnham (S)
Deputy R.G. Le Hérisssier (S)
Deputy J.B. Fox (H)
Deputy J-A. Bridge (H)
Deputy S.C. Ferguson (B)
Deputy of St. Mary
Deputy of St. Ouen
Deputy P.J.D. Ryan (H)
Deputy M.A. Taylor (C)
Deputy of St. Peter
Deputy G.W.J de Faye (H)

THE STATES adopted Articles 26 to 29.

Members present voted as follows –

POUR: 28

Senator F.H. Walker
Senator T.A. Le Sueur
Senator P.F. Routier
Senator P.F.C. Ozouf
Connétable of St. Saviour

Connétable of St. Brelade
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of St. Helier
Connétable of St. John
Deputy of Trinity
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy of St. John
Deputy M.F. Dubras (L)
Deputy J.L. Dorey (H)
Deputy P.N. Troy (B)
Deputy L.J. Farnham (S)
Deputy J.B. Fox (H)
Deputy J.A. Bernstein (B)
Deputy S.C. Ferguson (B)
Deputy of St. Mary
Deputy of St. Ouen
Deputy P.J.D. Ryan (H)
Deputy M.A. Taylor (C)
Deputy of St. Peter
Deputy G.W.J de Faye (H)

CONTRE: 7

Senator S. Syvret
Senator W. Kinnard
Senator P.V.F. Le Claire
Connétable of St. Ouen
Deputy R.G. Le Hérisssier (S)
Deputy J.A. Martin (H)
Deputy J.A. Hilton (H)

ABSTAIN: 0

THE STATES adopted the Schedule, as amended by the Employment and Social Security Committee, that in paragraph 2 –

there be deleted sub-paragraph (2)(e) and that sub-paragraph (2)(f) be relettered accordingly;

there be deleted sub paragraph (5);

for sub-paragraph (6), there be substituted the following sub-paragraph –

“(6) In Article 36(1) of the principal Law, for ‘sub-paragraph (b) in the definition of “employ” in Article 1 substitute ‘Article 1A(3)(a).’”;

there be deleted sub-paragraphs (8) and (9);

there be deleted sub-paragraphs (12)(e), (13), (14), (15) and (16);

there be deleted sub-paragraphs (18) and (19); and,

that sub-paragraphs (6), (7), (1), (11), (12), (17) and (18) be re-numbered accordingly.

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted, as amended, a Law entitled the Employment Relations (Jersey) Law 200-.

Members present voted as follows –

POUR: 31

Senator F.H. Walker
Senator T.A. Le Sueur
Senator P.F. Routier
Senator P.F.C. Ozouf
Connétable of St. Martin
Connétable of St. Ouen
Connétable of St. Saviour
Connétable of St. Brelade
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of St. Helier
Connétable of St. John
Deputy of Trinity
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy of St. John
Deputy M.F. Dubras (L)
Deputy J.L. Dorey (H)
Deputy P.N. Troy (B)
Deputy L.J. Farnham (S)
Deputy R.G. Le Hérisssier (S)
Deputy J.B. Fox (H)
Deputy J-A. Bridge (H)
Deputy S.C. Ferguson (B)
Deputy of St. Mary
Deputy of St. Ouen
Deputy P.J.D. Ryan (H)
Deputy M.A. Taylor (C)
Deputy of St. Peter
Deputy G.W.J de Faye (H)

CONTRE: 7

Senator S. Syvret
Senator W. Kinnard
Senator P.V.F. Le Claire
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy J.A. Bernstein (B)
Deputy J.A. Hilton (H)

ABSTAIN: 0

Change in Presidency

The Deputy Bailiff retired from the Chair during consideration of Articles 26 to 29 of the Draft Employment

Relations (Jersey) Law 200-, (P.19/2005 lodged “au Greffe” on 1st February 2005), and the meeting continued under the Presidency of Mr. Michael Nelson de la Haye, Greffier of the States.

Draft Employment (Amendment) (Jersey) Law 200- P.87/2005

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled the Employment (Amendment) (Jersey) Law 200-.

Members present voted as follows –

POUR: 30

CONTRE: 0

ABSTAIN: 0

Senator F.H. Walker
Senator W. Kinnard
Senator T.A. Le Sueur
Senator P.V.F. Le Claire
Senator P.F. Routier
Connétable of St. Martin
Connétable of St. Ouen
Connétable of St. Saviour
Connétable of St. Brelade
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of St. Helier
Connétable of St. John
Deputy of Trinity
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy M.F. Dubras (L)
Deputy J.L. Dorey (H)
Deputy P.N. Troy (B)
Deputy R.G. Le Hérisssier (S)
Deputy J.B. Fox (H)
Deputy J-A. Bridge (H)
Deputy J.A. Martin (H)
Deputy S.C. Ferguson (B)
Deputy of St. Mary
Deputy M.A. Taylor (C)
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy G.W.J de Faye (H)

Draft Employment (Jersey) Law 2003 (Appointed Day) Act 200- P.88/2005

THE STATES, in pursuance of Article 108 of the Employment (Jersey) Law 2003, made an Act entitled th Employment (Jersey) Law 2003 (Appointed Day) Act 2005.

Machinery of Government: relationship between the Parishes and the Executive – P.66/2005 Amendments and Comments

THE STATES commenced consideration of a proposition of the Policy and Resources Committee concerning the Machinery of Government: relationship between the Parishes and the Executive, and rejected an amendment of the Connétable of St. Helier that at the end of paragraph (a), after the words “*native welfare*” there be inserted the words “but to request the Policy and Resources Committee to bring forward to the States for approval alternative proposals to establish an equitable system to ensure fairness between the parishes in

relation to the costs of maintenance of public amenities such as public parks, gardens and toilets within St. Helier and the other parishes?.

Members present voted as follows –

POUR: 17

Senator P.V.F. Le Claire
Senator P.F. Routier
Senator P.F.C. Ozouf
Connétable of St. Helier
Deputy of Trinity
Deputy J.L. Dorey (H)
Deputy L.J. Farnham (S)
Deputy R.G. Le Hérisssier (S)
Deputy J.B. Fox (H)
Deputy J-A. Bridge (H)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy J.A. Bernstein (B)
Deputy of St. Mary
Deputy P.J.D. Ryan (H)
Deputy J.A. Hilton (H)
Deputy G.W.J de Faye (H)

CONTRE: 19

Senator F.H. Walker
Senator W. Kinnard
Senator T.A. Le Sueur
Connétable of St. Martin
Connétable of St. Ouen
Connétable of St. Saviour
Connétable of St. Brellade
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of St. John
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy of St. John
Deputy M.F. Dubras (L)
Deputy P.N. Troy (B)
Deputy S.C. Ferguson (B)
Deputy of St. Ouen
Deputy of St. Peter

ABSTAIN: 0

THE STATES, adopting a proposition of the Policy and Resources Committee, referred to their Act dated 25th May 2004 concerning the relationship between the Parishes and the Executive, in which, *inter alia*, they agreed that responsibility for meeting the costs of 'native' welfare (including a 10 per cent provision for the cost of administration) and residential care, currently met by the Island's ratepayers, should be met from the general revenues of the States and –

- (a) rescinded paragraphs (a)(ii) and (iii) of their Act dated 25th May 2004, in which they agreed *inter alia* that the cost of certain services currently provided by the Environment and Public Services Committee and Parish of St. Helier, including main road maintenance, parks and gardens and public conveniences, should be funded by the Island's ratepayers in exchange for native welfare;
- (b) agreed that the income raised through the Island-wide Rate, the introduction of which was approved by the States on 25th May 2004, be transferred to the States to contribute towards the costs of welfare (including a 10% provision for the cost of administration) and residential care with effect from the introduction of this Rate on 1st May 2006, and varied their Act accordingly;
- (c) agreed that the total annual income to be received from the Island-Wide Rate, together with the proportions to be received from the commercial and domestic elements respectively, would be determined by the States following the recommendation of the Connétables, constituted as the Supervisory Committee, as set out in paragraphs 11-15 of the report of the Policy and Resources Committee dated 21st March 2005;
- (d) rescinded paragraph (c) of their Act dated 25th May 2004, in which they agreed that a Conseil des Connétables be established as a body corporate with responsibility, among other things, for managing the delivery of a range of Island-wide services and the Island-wide Services Fund; and,
- (e) agreed that the Policy and Resources Committee should be charged to prepare the necessary legislative changes to enable paragraphs (a)-(c) to be implemented, subject to States approval, in time for the Parishes' 2006/7 accounting year.

Members present voted as follows –

POUR: 34

CONTRE: 1

ABSTAIN: 0

Senator F.H. Walker
Senator W. Kinnard
Senator T.A. Le Sueur
Senator P.V.F. Le Claire
Senator P.F. Routier
Senator P.F.C. Ozouf
Connétable of St. Martin
Connétable of St. Ouen
Connétable of St. Saviour
Connétable of St. Brelade
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of St. Helier
Connétable of St. John
Deputy of Trinity
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy M.F. Dubras (L)
Deputy J.L. Dorey (H)
Deputy P.N. Troy (B)
Deputy L.J. Farnham (S)
Deputy R.G. Le Hérisssier (S)
Deputy J.B. Fox (H)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy J.A. Bernstein (B)
Deputy S.C. Ferguson (B)
Deputy of St. Mary
Deputy of St. Ouen
Deputy P.J.D. Ryan (H)
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy G.W.J de Faye (H)

Deputy of St. John

Change in Presidency

The Deputy Bailiff returned to the Chamber and assumed the Presidency during consideration of the proposition of the Policy and Resources Committee concerning the Machinery of Government: relationship between the Parishes and the Executive, (P.66/2005 lodged “au Greffe” on 22nd March 2005), and prior to the commencement of the consideration of the amendment of the Connétable of St. Helier, (P.66/2005 Amd lodged “au Greffe” on 5th April 2005), and the meeting continued under his Presidency.

Draft Housing (General Provisions) (Amendment No. 22) (Jersey) Regulations 200 P.71/2005

THE STATES commenced consideration of the Draft Housing (General Provisions) (Amendment No. 22) (Jersey) Regulations 200-. After discussion, Deputy Geoffrey Peter Southern of St. Helier proposed that the matter be referred back to the Housing Committee, which proposition was rejected.

Members present voted as follows on the reference back –

POUR: 11

CONTRE: 22

ABSTAIN: 0

Senator W. Kinnard
Senator P.V.F. Le Claire
Connétable of St. Mary

Senator F.H. Walker
Senator T.A. Le Sueur
Senator P.F. Routier

Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy R.G. Le Hérisssier (S)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy J.A. Bernstein (B)
Deputy of St. Peter
Deputy G.W.J de Faye (H)

Senator P.F.C. Ozouf
Connétable of St. Martin
Connétable of St. Ouen
Connétable of St. Saviour
Connétable of St. Brelade
Connétable of St. Peter
Connétable of St. Clement
Connétable of St. John
Deputy of Trinity
Deputy M.F. Dubras (L)
Deputy J.L. Dorey (H)
Deputy P.N. Troy (B)
Deputy L.J. Farnham (S)
Deputy J.B. Fox (H)
Deputy S.C. Ferguson (B)
Deputy of St. Mary
Deputy of St. Ouen
Deputy P.J.D. Ryan (H)
Deputy J.A. Hilton (H)

THE STATES resumed consideration of the Draft Housing (General Provisions) (Amendment No. 22) (Jersey Regulations 200-, and adopted the preamble.

Members present voted as follows –

POUR: 33

CONTRE: 1

ABSTAIN: 0

Senator F.H. Walker
Senator W. Kinnard
Senator T.A. Le Sueur
Senator P.V.F. Le Claire
Senator P.F. Routier
Senator P.F.C. Ozouf
Connétable of St. Martin
Connétable of St. Ouen
Connétable of St. Saviour
Connétable of St. Brelade
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of St. John
Deputy of Trinity
Deputy R.C. Duhamel (S)
Deputy of St. John
Deputy M.F. Dubras (L)
Deputy J.L. Dorey (H)
Deputy P.N. Troy (B)
Deputy L.J. Farnham (S)
Deputy R.G. Le Hérisssier (S)
Deputy J.B. Fox (H)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy J.A. Bernstein (B)
Deputy S.C. Ferguson (B)
Deputy of St. Mary
Deputy of St. Ouen
Deputy P.J.D. Ryan (H)
Deputy of St. Peter

Deputy of St. Martin

Deputy J.A. Hilton (H)
Deputy G.W.J de Faye (H)

THE STATES, in pursuance of Articles 10 and 15 of the Housing (Jersey) Law 1949, made Regulations entitled the Housing (General Provisions) (Amendment No. 22) (Jersey) Regulations 2005.

Change in Presidency

The Deputy Bailiff retired from the Chair during consideration of the proposition of Deputy Geoffrey Peter Southern of St. Helier that the Draft Housing (General Provisions) (Amendment No. 22) (Jersey) Regulation 200-, (P.71/2005 lodged "au Greffe" on 19th April 2005), be referred back to the Housing Committee, and the meeting continued under the Presidency of Mr. Michael Nelson de la Haye, Greffier of the States.

THE STATES rose at 7.00 p.m.

M.N. DE LA HAYE

Greffier of the States.