

STATES OF JERSEY

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STATES MEMBERS' REMUNERATION: ABOLITION OF MEANS TESTING

**Lodged au Greffe on 21st October 2003
by the Privileges and Procedures Committee**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to agree to suspend Standing Order 44(1) to enable members to discuss a matter in which they have a direct pecuniary interest;
- (b) to agree that the present arrangements regarding the provision of a means tested minimum income and an expenses allowance to elected members of the States shall be replaced with effect from 1st January 2004 with a new remuneration scheme, available to all elected members irrespective of income from any other source, and that under the new scheme all elected members of the States shall, on application to the Treasurer of the States be able to receive income support and expense allowance up to a fixed maximum annual sum;
- (c) to agree that, under the new scheme, members shall make application to the Treasurer of the States before 1st January each year indicating the sums they wish to receive for the following year, with the possibility of applying to amend those sums at any time during the year by giving at least one month's notice to the Treasurer;
- (d) to agree that for the year 2004 members shall be entitled to receive –
 - (i) income support of up to £28,609 increased by a figure of 0.5% below the percentage rise in the Jersey Retail Price Index at the end of 2003;
 - (ii) an expense allowance of up to £9,629 increased by the percentage rise in the Jersey Retail Price Index at the end of 2003;
- (e) to agree that for the year 2005, and for subsequent years, the maximum annual sum shall be fixed following receipt of the recommendations of the States Members Remuneration Review Body to be established in accordance with the decision of the States of 13th May 2003;
- (f) to agree that payments shall be made to elected members monthly in arrears from 1st January 2004 and to request the Treasurer of the States to make appropriate transitional arrangements to ensure that no elected member suffers undue hardship as a result of the change to this method of payment;
- (g) to agree that elected States members who are liable to pay Class 2 social security contributions by virtue of receiving remuneration under the scheme shall be able to apply quarterly to the Treasurer of the States for reimbursement equivalent to the secondary (employer's) element of those contributions; and
- (h) to request the Privileges and Procedures Committee, in consultation with the Finance and Economics Committee, to take the necessary steps to bring the new scheme into operation.

PRIVILEGES AND PROCEDURES COMMITTEE

REPORT

1 Introduction

- 1.1 The Privileges and Procedures Committee is required by its terms of reference, as agreed by the States in adopting P.23/2002, as amended, on 26th March 2002, to bring forward proposals –

“on the remuneration and expenses provision for elected members of the States, including roles such as ministers, chairmen of scrutiny committees, assistant ministers and others”.

- 1.2 Following the publication of its First Report, the Privileges and Procedures Committee as then constituted responded to the consultation period by producing a draft report and proposition that it felt reflected comment received at that time and this was lodged on 10th December 2002 as P.238/2002. However, following the elections at the end of 2002, the Privileges and Procedures Committee decided to re-open the consultation process to allow those members who did not respond prior to lodging, and new members, to have that opportunity. The Committee is grateful to all those who responded to the request for comments and, having given them due consideration, has made the decision to withdraw P.238/2002 and submit this new proposition.
- 1.3 The Committee has also now had the opportunity to consider the impact of the proposition of Senator E.P. Vibert that was adopted on 13th May 2003 concerning the establishment of an independent States Members Remuneration Body which will make recommendations on the appropriate level of remuneration to be made available to elected members. The Committee, following discussions with Senator E.P. Vibert, has lodged a proposition concerning the establishment of that Body and this proposition should be considered in the context of those proposals.

2. The abolition of means testing

- 2.1 Of those members who responded to the consultation exercise, a strong consensus emerged that the current system of means testing is unfair and inequitable. This concurred with the view expressed by the former House Committee Remuneration Sub-Committee in their consultation document, (R.C.33/2001) published on 25th September 2001. The Privileges and Procedures Committee shares the views of the House Committee Working Party which was responsible for drafting that report which made the following comments about the present means-tested system –

4.1.1 The Working Party recognised at the outset of its deliberations that the work of a States member can no longer be regarded as a part-time ‘amateur’ pursuit. The Working Party was not, nevertheless, of the view that all States members should be full-time politicians and recognised that some members of the States currently combine their political duties with other employment or self-employment. The Working Party noted, however, that members who do this are often required to make considerable professional and personal sacrifices to undertake their work as States members and considered that it was particularly inequitable that the present system of means tested income support precluded some of these members from receiving any benefit other than expense allowance.

4.1.2 The Working Party recognised that there is a long tradition of honorary service in the Island and accepted that some members of the States and others in the Island may be opposed, as a matter of principle, to the idea of paying members. Nevertheless the Working Party recognised that the States have already, on many occasions, accepted that arrangements for income support should be in place to allow members to devote themselves entirely to their political duties if they so choose and believed that this reality must be reflected in any revised arrangements concerning remuneration. As set out above the Working Party’s research into the position in other jurisdictions showed that Jersey appears unique in discriminating in the means tested system that is currently in place.

- 2.2 The Privileges and Procedures Committee therefore proposes that the present means tested system is

replaced with a new scheme in which all elected members would initially be entitled, irrespective of income from other sources, to receive sums up to the maximum sums available under the present scheme, updated on 1st January 2004 in accordance with the existing mechanism for increases (namely RPI minus 0.5% for the income support part of the payment and RPI for the expense allowance). As shown in the proposition the maximum sums from 1st January 2004 would therefore be £28,609 plus RPI – 0.5% as at 31st December 2003 for income support and £9,629 plus RPI as at 31st December 2003 for expense allowance. For 2005 and beyond the sums will be agreed following the receipt of the recommendations of the States Members Remuneration Review Body.

2.3 Under the new scheme members would be able to apply before 1st January each year to request the amount they wished to claim for the following twelve months. There would be the opportunity for members to apply to change the sum being claimed by giving one month's notice to the Treasurer if their circumstances changed.

2.4 Although the Privileges and Procedures Committee recommended in P.238/2002 that the sum available to members should be increased beyond the present maximum figures the Committee accepts that any change in the figures (apart from the agreed annual increase) is now a matter for the independent Review Body to consider and, as a result, the figures proposed in the proposition will apply for 2004 only. The Committee nevertheless believes strongly that the abolition of means testing is a matter that should be resolved by the States before the Review Body begins its work so that the Body is clear that the recommendations it will make would apply to all members irrespective of income from other sources.

3. Sensitivities

3.1 The Committee is conscious of the sensitivities surrounding the abolition of means testing and aware that the concept of honorary service remains an important one in the Island, not just in the political environment. The Committee fully accepts that some elected members will have no wish to accept any remuneration for the service they give to the States and there would, therefore, be no obligation for members to apply to receive remuneration if they did not wish to. Nevertheless, the Privileges and Procedures Committee shares the view of the former House Committee Remuneration Sub-Committee that it is quite unfair that elected members of the States who have outside sources of income beyond the current minimum allowable amount should be precluded from receiving adequate compensation for the many hours they spend on their States duties. The Committee believes that those members who maintain outside employment or self-employment almost inevitably suffer some direct financial cost as a result of their membership of the States and it is quite inequitable that many are currently precluded from claiming any income support at all. The Committee's view is therefore that elected members should simply be entitled to apply to the Treasurer of the States to claim the amount that they felt was appropriate up to the maximum allowable.

3.2 The Privileges and Procedures Committee would reiterate that the present means tested system, as examined in R.C.33/2001, appears to be totally unique amongst the various jurisdictions examined by the Working Party including Guernsey and the Isle of Man, where comparisons are perhaps more appropriate than against larger jurisdictions such as the U.K. Parliament at Westminster.

3.3 The Committee has formed the view that suitable remuneration and expenses should also provide a means of compensation for elected members, to enable them to plan and save for their own futures, in a similar way that they advocate policies relating to prudent future financial planning for all citizens, for the benefit of the Island and its community.

3.4 Providing suitable remuneration and expenses will hopefully encourage States members to come from all walks of life, rather than be narrowly representative of the electorate. Given the need that the majority of elected States members have to maintain commitments and responsibilities outside the Assembly and their States work, (such as mortgages and families), it is perhaps even more important to attract and retain as broad a membership as possible to the States.

3.5 There is, at present, no accurate information available about the total 'cost' to an individual as a result of

being an elected member of the States, although indications are that many members incur greater expenses than the £9,629 + RPI being proposed. In addition, it is apparent that this cost will vary greatly depending on the member's individual circumstances. Some members rent office accommodation to use in connection with their States' duties, others employ full or part-time secretarial support and some need to meet the cost of child care in order to attend to their States' duties. Others may already have access to office accommodation or simply work from home. The Committee researched average costs and discovered that office space costs between £15 and £25 per square foot, hiring a secretary costs a minimum of between £15,000 and £20,000 per annum (some members share the services of a secretary) depending on their skills and role, and childcare can cost from £4/hr to £8/hr depending on the age of the child and the qualifications of the carer.

4. Social Security contributions

- 4.1 The Committee considers that the present system of reimbursement of a sum equivalent to the employer's social security contributions, reinstated in 2002, works adequately and should continue for the time being. For the avoidance of doubt, the Committee would point out that elected members remain responsible for the payment of the employee's contribution if they are liable to make contributions and the reimbursement concerned is simply equivalent to the payment that would be made by the employer in a normal employer-employee relationship.
- 4.2 The Committee is mindful that, because of the requirements of the Income tax law, members are effectively taxed twice on this amount, as the refund is, for the purposes of income tax, treated as income. The Committee has therefore requested the Employment and Social Security Committee to consider bringing forward a legislative change to enable States members to be treated as 'employed' so that this anomaly can be rectified.

5. Method of payment

- 5.1 Under the current scheme members are paid quarterly in advance. This method causes a certain amount of additional administrative work for the States Treasury and can also be inconvenient if members leave office during the period in respect of which payment has already been made as it is necessary for repayments to be made. The States Treasury has indicated that it would significantly ease the administrative burden if payments to members were made as part of the monthly payroll process so that members, in common with States' employees, would be paid monthly in arrears. The Committee believes that members may also, after the transitional period, find this method more convenient for financial planning.
- 5.2 The changeover to the new system could lead to a short-term difficulty for members who would have to budget for a 4-month gap between payments. The proposition therefore requests the Treasurer to make appropriate transitional arrangements to ensure that no member is unduly prejudiced by the changeover. The States Treasury has indicated that this could be achieved by paying one month in advance at the start of the new system with that amount being recovered over a period of several months under the new system.

6. Different levels of remuneration for members with positions of responsibility

- 6.1 As stated in paragraph 1.1 above the Committee's terms of reference require it to consider whether different levels of remuneration should be made to members with particular positions of responsibility (Ministers, Chairmen of Scrutiny Panels, Assistant Ministers etc.) in the new ministerial system.
- 6.2 As can be seen from the proposition the Committee is not intending to address this issue at the present time. It is not yet clear what the actual workload will be for those members with these positions of responsibility and the Committee considers it would be premature to make recommendations on this matter at the present time. In addition the Committee is aware that there are strongly held views amongst members on the desirability or otherwise of introducing such additional payments and the Committee intends to consult widely before bringing forward proposals on this issue.

7. Financial and manpower implications

- 7.1 The abolition of means testing will inevitably have some financial implications as it is almost certain that some members who are unable to claim income support at the present time will do so under the new scheme. Nevertheless it is difficult to quantify with any degree of certainty the impact of the change as members will, as stated above, be free to claim the sum that they wish up to the maximum and it is possible that some members will claim nothing or an amount which is less than the maximum.
- 7.2 The 2003 budgets for members' income support and expenses allowance are £663,500 and £470,600 respectively, making a total of £1,134,100. These sums would be clearly inadequate to meet the total cost if all members decided to claim the maximum amounts as shown in the table below.

<u>2003</u>		
Maximum Expense Allowance claimable	=	9,629
Minimum Income Support claimable (max)	=	28,609
Total maximum claimable	=	<u>38,238</u>
Based on all 53 elected members claiming:		
Total expense allowance	=	510,337
Total minimum income support	=	1,516,277
Total based on all members claiming	=	<u>2,026,614</u>

There are, in addition, Social Security payments for the year 2003 estimated in the sum of £40,000.

- 7.3 During 2002 all members claimed the expense allowance. Not all members accepted all or part of the income support allowance. The total amount of expenses and income support paid to members during 2002 was £1,312,519. This equates to an average figure of £24,764 per member. Although final figures for 2003 will not be available until the year end the expenditure to the end of September amounts to £693,460 for expenses allowance and £378,834 for expense allowance, making a total of £1,072,294. If this level of expenditure continued to the year end the 2003 total would be £1,429,725.
- 7.4 The Finance and Economics Committee was successful in obtaining an increase in the budgets for States members' remuneration during the Fundamental Spending Review process for 2004 and, as a result, the available budgets for 2004 (which have now been transferred as 'ring-fenced' amounts to the Privileges and Procedures Committee) are £805,500 and £538,600, making a total of 1,344,100. It is impossible to tell whether these amounts will be adequate if the new scheme is adopted although, on balance, it is unlikely that they will and any shortfall will need to be met from the General Reserve. The Privileges and Procedures Committee has submitted a growth request for an additional £760,000 to the 2005 FSR process which is based on all 53 members claiming the maximum possible as the Committee is of the view that it is prudent to budget for that total if all members are entitled to claim. If there is any excess in the budget at the end of 2005 it will, because of the 'ring-fencing' arrangement, be returned to general revenues and not retained by the Privileges and Procedures Committee as a carry forward.
- 7.5 This proposition has no implications for the manpower resources of the States and should, in fact, lead to some efficiencies because of the proposed new method of monthly payments.