

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 30th MARCH 2022

COMMUNICATIONS BY THE PRESIDING OFFICER.....	5
1.1 Tribute to Mr. Nigel Quérée:.....	5
PUBLIC BUSINESS - resumption	5
2. Draft Children (Convention Rights) (Jersey) Law 202- (P.19/2022): second amendment (P.19/2022. Amd.(2)) - resumption.....	5
2.1 Deputy R.J. Ward of St. Helier (Chair, Children, Education and Home Affairs Scrutiny Panel):	6
2.1.1 Deputy S.M. Wickenden of St. Helier:	7
2.1.2 Senator S. Y. Mézec:	7
2.1.3 Deputy J.A. Martin of St. Helier:.....	8
2.1.4 Deputy J.H. Young of St. Brelade:	8
2.1.5 Deputy M. Tadier of St. Brelade:	9
2.1.6 Senator J.A.N. Le Fondré:	10
2.1.7 Senator T.A. Vallois:	10
2.1.8 Senator K.L. Moore:	11
2.1.9 Senator I.J. Gorst:	11
2.1.10 Deputy G.C. Guida of St. Lawrence:	12
2.1.11 Connétable M.K. Jackson of St. Brelade:	12
2.1.12 Deputy K.G. Pamplin of St. Saviour:.....	12
2.1.13 Deputy R.J. Renouf of St. Ouen:.....	13
2.1.14 Connétable A. Jehan of St. John:	13
2.1.15 Deputy J.H. Perchard of St. Saviour:	13
2.1.16 Connétable D.W. Mezbourian of St. Lawrence:	14
2.1.17 Deputy R.J. Ward:	15
2.2 Draft Children (Convention Rights) (Jersey) Law 202- (P.19/2022) - resumption	17
2.2.1 Deputy S.M. Wickenden:.....	17
2.3 Draft Children (Convention Rights) (Jersey) Law 202- (P.19/2022): third amendment (P.19/2022. Amd.(3))	19
2.3.1 Senator T.A. Vallois (Children, Education and Home Affairs Scrutiny Panel - rapporteur):	19
2.3.2 Deputy S.M. Wickenden:.....	20
2.3.3 Senator T.A. Vallois:	21
2.4 Draft Children (Convention Rights) (Jersey) Law 202- (P.19/2022) - as amended.....	22
2.4.1 Deputy S.M. Wickenden:.....	22
2.5 Deputy S.M. Wickenden:.....	23

2.5.1 Deputy R.J. Ward:	23
2.5.2 Senator S.Y. Mézec:	24
2.5.3 Deputy M. Tadier:.....	24
2.5.4 Deputy S.M. Wickenden:.....	25
3. Draft Police (Complaints and Conduct) (Jersey) Law 202- (P.22/2022)	26
3.1 Deputy G.C. Guida (The Minister for Home Affairs):	27
3.1.1 Deputy R.J. Ward:	29
3.1.2 Deputy K.F. Morel:.....	29
3.1.3 Connétable A.S. Crowcroft of St. Helier:	29
3.1.4 The Connétable of St. Brelade:.....	30
3.1.5 The Connétable of St. Lawrence:	30
3.1.6 Deputy G.C. Guida:	30
3.2 Deputy G.C. Guida:	32
3.2.1 Deputy K.F. Morel:.....	33
3.2.2 Deputy G.C. Guida:	33
3.3 Deputy G.C. Guida:	34
4. Draft Criminal Procedure (Consequential Amendments - Access to Justice) (Jersey) Regulations 202- (P.4/2022)	35
4.1 Senator J.A.N. Le Fondré (The Chief Minister):	36
4.1.1 Deputy S.M. Ahier of St. Helier:	36
4.1.2 Senator J.A.N. Le Fondré:	36
5. Draft Control of Housing and Work (Amendment) (Jersey) Law 202- (P.13/2022) ...	38
5.1 Deputy R.E. Huelin of St. Peter (Assistant Chief Minister - rapporteur):.....	38
5.1.1 Senator L.J. Farnham:	40
5.1.2 Senator S.W. Pallett:.....	40
5.1.3 Senator K.L. Moore:	42
5.1.4 Deputy G.C. Guida:	42
5.1.5 The Deputy of St. Peter:	43
5.2 The Deputy of St. Peter:	45
5.2.1 Senator S.W. Pallett:.....	47
Mr. M. Jowitt, H.M. Solicitor General:.....	47
5.2.2 Deputy R.J. Ward:	48
5.2.3 The Deputy of St. Peter:	48
5.3 The Deputy of St. Peter:	49
6 Rate Appeal Board: Appointment of Members (P.16/2022).....	51
6.1 Deputy S.J. Pinel of St. Clement (The Minister for Treasury and Resources):.....	51
6.1.1 Senator S.W. Pallett:.....	51
6.1.2 Deputy K.F. Morel:.....	52
6.1.3 The Connétable of St. Lawrence:	52
6.1.4 Deputy S.J. Pinel:.....	52
7. Amendment to Standing Orders - Inclusion of Island Identity Statement (P.17/2022)	54
LUNCHEON ADJOURNMENT PROPOSED	54
LUNCHEON ADJOURNMENT.....	54
7.1 The Deputy of Grouville:.....	54
7.1.1 Senator S.Y. Mézec:	55

7.1.2 Deputy D. Johnson of St. Mary:	55
7.1.3 The Connétable of St. John:	56
7.1.4 The Connétable of St. Brelade:	56
7.1.5 Senator S.W. Pallett:	56
7.1.6 Deputy K.F. Morel:	56
7.1.7 Deputy M. Tadier:	57
7.1.8 Deputy C.S. Alves of St. Helier:	58
7.1.9 Deputy S.M. Wickenden:	59
7.1.10 Deputy J.H. Young:	59
7.1.11 Deputy R.J. Ward:	59
7.1.12 The Deputy of St. Ouen:	60
7.1.13 Deputy J.M. Maçon of St. Saviour:	60
7.1.14 Connétable J. Le Bailly of St. Mary:	61
7.1.15 Deputy I. Gardiner of St. Helier:	61
7.1.16 The Deputy of Grouville:	61
8. Maintenance of Jersey's credit rating (P.18/2022)	63
8.1 Deputy K.F. Morel:	63
8.2 Maintenance of Jersey's credit rating (P.18/2022): amendment (P.18/2022 Amd.)	64
8.2.1 Deputy S.J. Pinel (The Minister for Treasury and Resources):	65
8.2.2 Deputy J.H. Young:	65
8.2.3 Deputy S.J. Pinel:	65
8.3 Maintenance of Jersey's credit rating (P.18/2022) - as amended.....	67
8.3.1 Senator K.L. Moore:	67
8.3.2 Deputy K.F. Morel:	67
9. Draft Banking Business (Amendment No. 9) (Jersey) Law 202- (P.20/2022)	69
9.1.1 Connétable R.A. Buchanan of St. Ouen (Assistant Minister for External Relations and Financial Services - rapporteur):	69
9.1.2 The Deputy of St. Mary:	70
9.1.3 The Connétable of St. Ouen:	70
10. Draft Employment (Amendment No. 12) (Jersey) Law 202- (P.21/2022).....	74
10.1 Deputy J.A. Martin (The Minister for Social Security):	74
10.1.1 Senator S.Y. Mézec:	74
10.1.2 Deputy K.F. Morel:	76
10.1.3 Deputy J.H. Young:	76
10.1.4 The Connétable of St. Ouen:	76
10.1.5 The Deputy of St. Ouen:	77
10.1.6 Deputy G.P. Southern:	77
10.1.7 Deputy J.A. Martin:	78
10.2 Deputy J.A. Martin:	80
10.2.1 The Connétable of St. Ouen:	80
10.2.2 Deputy J.A. Martin:	80
11. Draft Income Tax (Amendment of Law - Limited Liability Companies) (Jersey) Regulations 202- (P.25/2022)	82
11.1 Senator I.J. Gorst (Assistant Minister for Treasury and Resources - rapporteur):	83
11.2 Senator I.J. Gorst:	84

12. Draft COVID-19 (Enabling Provisions) (Amendment No. 4) (Jersey) Law 202-	
(P.27/2022)	86
12.1 The Deputy of St. Ouen (The Minister for Health and Social Services):	87
Deputy R.J. Ward:	88
The Solicitor General:	89
Senator S.Y. Mézec:	89
12.1.1 Deputy G.C. Guida:	90
12.1.2 Deputy S.M. Wickenden:	90
12.1.3 Deputy R. Labey of St. Helier:	90
12.1.4 Deputy M. Tadier:	90
12.1.5 Deputy K.G. Pamplin:	91
Deputy R.J. Ward:	92
The Solicitor General:	92
12.1.6 Deputy J.H. Young:	93
12.1.7 Senator L.J. Farnham:	93
12.1.8 Senator T.A. Vallois:	93
12.1.9 The Connétable of St. Ouen:	93
12.1.10 The Connétable of St. John:	94
12.1.11 Senator S.Y. Mézec:	94
12.1.12 Deputy S.G. Luce of St. Martin:	95
12.1.13 The Deputy of St. Ouen:	95
12.2 The Deputy of St. Ouen:	97
13. Draft COVID-19 (Amendments - Extensions to September 2022) (Jersey) Regulations	
202- (P.28/2022)	100
13.1 The Deputy of St. Ouen (The Minister for Health and Social Services):	100
13.1.1 Deputy R.J. Ward:	102
13.1.2 Senator T.A. Vallois:	102
13.1.3 The Deputy of St. Ouen:	102
13.2 The Deputy of St. Ouen:	105
13.2.1 Deputy R.J. Ward:	105
13.2.2 Deputy J.A. Martin:	105
13.2.3 Deputy J.H. Young:	106
The Solicitor General:	108
Deputy C.S. Alves:	110
Deputy J.A. Martin:	110
Deputy J.H. Perchard:	110
The Connétable of St. Ouen:	110
Deputy I. Gardiner:	110
Deputy M. Tadier:	110
Deputy K.F. Morel:	111
Deputy C.S. Alves:	111
Deputy M. Tadier:	111
ADJOURNMENT	111

[9:30]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

The Bailiff:

1.1 Tribute to Mr. Nigel Quérée:

Members may have heard of the death on Monday of former Senator Nigel Quérée. He died at home in St. Ouen, the Parish into which he was born in 1954 and to which he was devoted. Indeed his first election to public office was as a Constable's officer in that Parish. His was a farming family and it was this to which he attributed a love of the environment for which he became so well-known. He was educated at Les Landes School, Victoria College and Salford University and, on returning to the Island, became an active member of the environmental group Concern, as well as supporting the campaign to prevent the flooding of Queen's Valley. This sparked his interest in standing for the States. He was elected as a Senator in 1990 and he combined a working life as an I.T. (information technology) manager and later director of the builders' merchants, Normans, with active participation in this Assembly. He was very quickly elected president of the Telecommunications Committee and was also a member at various times of the Education, Agricultural and Fisheries and Policy and Resources Committees. It was his passion for planning and the environment, however, and his tenure as president of that committee from 1996 for which he may be best remembered. Given this Assembly's debate over the last 2 weeks, it is notable that it was he who introduced the 2002 Island Plan. That plan contained a new approach to development in which zoning was streamlined, the green zone strengthened, and new policies introduced to minimise waste. Environmental impact assessments, countryside character appraisals and a robust historic buildings policy were other new aspects of the plan. It formed the basis of the next Island Plan in 2011 and its policies are the bedrock of the bridging Island Plan, which the Assembly agreed last week. His committee also modernised the Island's planning law, which had not been updated since 1964. It started the proper listing of buildings, designated S.S.I.s (sites of special interest) and produced a conservation of wildlife law. It moved towards creating the Channel Islands first wetland of international importance under the Ramsar Convention and wrote a masterplan for Les Mielles, and prepared the ground for planning meetings to be held in public. I know that those who observed his work feel that it transformed the way planning was viewed by practitioners and by the public. Following his retirement from politics, he remained heavily involved in environmental matters and was a trustee of the Gerard Le Claire Environmental Trust and chair of the Jersey Environment Forum. It was the Quérée family - himself and his wife - who, when attempts to buy the old holiday camp at Plémont in order to return it to nature had stalled, re-energised that campaign. The resulting restoration of the land for the people of Jersey spoke to his special love of his home Parish of St. Ouen. Today our thoughts are with his wife, Judith, daughter, Taryn, and son, Piers. I hope they will be comforted by the fact that the work undertaken by Nigel Quérée in this Chamber lives on, and that he is remembered with affection and admiration by those who served with him. I would now ask the Assembly to stand for a minute's silence in his memory. **[Silence]** May he rest in peace. **[Aside]** Yes, the défaut is raised for the Deputy of Grouville.

PUBLIC BUSINESS - resumption

2. Draft Children (Convention Rights) (Jersey) Law 202- (P.19/2022): second amendment (P.19/2022. Amd.(2)) - resumption

The Bailiff:

We now resume the debate on P.19. We are dealing with the second amendment, that is amendments to Article 6 and Article 7. The citation was read by the Greffier prior to the adjournment so it is now for Deputy Ward to propose the amendment and for it to be seconded and proceed to debate.

2.1 Deputy R.J. Ward of St. Helier (Chair, Children, Education and Home Affairs Scrutiny Panel):

I would like to start off by thanking the Minister and the officers for bringing forward the main proposition in all of its areas, and particularly in this area that proposes that C.R.I.A.s. (child rights impact assessments) are required for propositions that are lodged in the States Assembly because I feel it is a step forward in our consideration of the U.N.C.R.C. (United Nations Convention on the Rights of the Child) content and what it does is it makes us, as Members, consider those parts of the U.N.C.R.C. as we bring forward propositions and changes to the law in this Assembly, which will affect children and young people on this Island. We do support that main amendment. I do thank the officers because of the amount of time that they spent briefing the panel and the interaction that we have had, right from the beginning, and indeed all previous Ministers who were involved in this piece of work because I know it has been a long and winding road, as they say. The amendment, I am hoping, is a positive one, and the panel hopes this brings a positive discussion in this Assembly and, again, brings the rights of children in the U.N.C.R.C. that this Assembly adopted with P.63/2017 right at the forefront of our discussions.

[9:45]

The panel is bringing this amendment to extend the need for C.R.I.A.s to amendments and to amendments to amendments of main propositions. I must first of all explain that C.R.I.A.s come in 2 stages. I think it is important that Members understand this. The first one is a preliminary assessment. That is a very quick assessment of whether anything extra is needed with regard to C.R.I.A. and for amendments to propositions it will be referenced to the original proposition and the C.R.I.A. that goes with it to say: "Do I need anything else?" It is at that stage that the Member themselves can decide whether a full assessment is needed because the impact of that amendment is great enough to require that full assessment. The concerns over increased workload or increased obstacles need to be considered in that context. This initial assessment is very quick and all it does is it makes us refer to exactly the C.R.I.A. that has already been produced. There are a number of reasons why the panel brought this forward. The draft law, and I would hope the Minister would agree with this, is the start of a cultural shift to fully consider children's rights from a legislative and policy perspective. The panel's amendment will put the concept of children's rights firmly at the heart of decision-making in the States Assembly by requiring this to be made at all stages of the democratic process. That is what this amendment does. We all have a lot to learn about C.R.I.A.s and child rights impact assessments and the best way to enable them to happen and the most positive way for them to happen. If I can give an example, and I wracked my brains for an example as to where this would fit in. I looked back to the bridging Island Plan debate last week and one of the things I considered was the amendment to how far play space should be from development. The Minister came up with a number to say it should be this far and there was an amendment from one of the Members to say it should be a little closer. That initial amendment from the Minister would have had a C.R.I.A. attached to it that said: "These are the parts of the U.N.C.R.C." and in that consideration of how that affects children in that case, it strengthens and enriches that proposition and the Minister could say: "We are addressing the issue that children have an entitlement to play space." Wonderful, it ticks that box, looks at that point and says: "Yes, we are considering that, that fits in really well, I will bring that to the Assembly, this is enriching my proposition." The amendment to the amendment will come along and say: "I am looking at the original amendments, the C.R.I.A. absolutely covers it, all I am doing is decreasing the distance so my preliminary assessment is I do not need another C.R.I.A. I will get on with my amendment." It is that simple. But the consideration has taken place in the same context. However, if the amendment was to say you do not need to think about that at all then it might require a more detailed impact of how does that fit in with the U.N.C.R.C. in children's play space. I think that will be a consideration we would need to make. In both of those cases this is a very positive thing for us to do. I urge Members not to see this as an obstacle to anything, but to see it as a tool for enabling things to happen. For many

amendments there will not be the necessity for a C.R.I.A. The amendments coming forward today from Senator Gorst, many of those are about banking and liable companies and so on, probably do not need that much of a child rights impact assessment. So there is not an obstacle to many of the things that we do. But we do need to consider, as an Assembly, that if we are to bring something forward in this Assembly that affects children and affects young people in their development and their future, we have adopted the U.N.C.R.C. standards and convention of rights for children. Therefore, we do have a duty, if we are to do this work well, to consider those when we bring forward our propositions. I am going to leave it at that for now and I hope this can be a really positive debate because this is a really positive thing that we are doing. I cannot see any negativity in it. I hope that when Members speak they do so positively. I ask Members to consider and to support the amendment from the panel. I make the proposition.

The Bailiff:

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the amendment?

2.1.1 Deputy S.M. Wickenden of St. Helier:

I am not accepting the second amendment and I am asking Members to reject it. This amendment will significantly extend the scope of the duty introduced by Article 6 of the draft law. This duty will apply to every Member of the Assembly and will require the preparation of a C.R.I.A. preliminary assessment or screen for every amendment to a non-exempt proposition. To be clear, the scope of this change includes amendments to propositions, amendments to amendments and any subsequent amendments to amendments. I believe the draft law introduces appropriate balance and proportionate duty to C.R.I.A.s. The effect of this amendment will be significant. Members will need to consider what this will mean for themselves. If adopted the second amendment will require the preparation of approximately 75 preliminary assessments each year, based on 2019's propositions lodged. However, in the case of particularly complex propositions, say the last 2 weeks of the Island Plan, which we have just debated, Members would have been required to prepare C.R.I.A. preliminary assessments for every one of the 113 amendments lodged. So why am I, the Minister for Children and Education, opposed to this amendment? Firstly, I believe it risks reducing the C.R.I.A. process, a process that I am deeply committed to seeing introduced to a tick-box exercise, which creates an additional burden of work that results in less benefits. Secondly, the amendment will remove the opportunity for Members to exercise their discretion by choosing to prepare a C.R.I.A. preliminary assessment for the amendments they propose. This discretion should involve consideration of the C.R.I.A. published alongside the original proposition rather than additional duty by default. I think we should walk before we run on this new process and make sure that all Members, their support either in the Greffe or in the Ministerial unit are ready, prepared and understand the C.R.I.A.s before we go to such levels. Finally, as Members will be aware from the first amendment lodged by Scrutiny, the draft law includes the mechanisms to change the schedule of propositions that were exempt from C.R.I.A.s. In time it may be an appetite to remove the exemptions but I do not believe this should be our starting point. Therefore I ask Members to reject the second amendment and again, I say, could we walk before we run and make sure that we can embed a culture of C.R.I.A.s appropriately into our process? This can be extended at a later date. This is not prohibitive of any Member from lodging a C.R.I.A. if they choose to, during an amendment, but it does not make it by default.

2.1.2 Senator S.Y. Mézec:

I am very surprised that there should be opposition to this amendment. Deputy Wickenden said that we need a culture of creating C.R.I.A.s first. It strikes me as illogical to think that we will create that culture by providing carve-outs for more opportunities where Members will not have to consider child rights impact assessments. The Deputy is absolutely right that there should not just be a tick-box exercise. They should require Members to sit down and have a good think about what it is they

are proposing and understand what impacts it may or may not have on children and, in many instances, propositions will come to this Assembly where there simply is no impact on children. But some amendments can have a drastic impact on children. Deputy Ward gave an example of a recent one that talked about where play space would be provided for children but a Member may bring a proposition that has a clear and direct impact on children and somebody brings an amendment that attempts to scupper the intentions of that proposition or to delay the implementation of that proposition, which very clearly would have an impact on children's rights. It is right that if the initial proposition is required to account for itself in what impact it would have on children's rights then so would those who seek to change the nature of that proposition or the specifics of it. As Deputy Ward said, it really does not have to be an onerous thing. If your amendment is similar, in many respects, to the main proposition a large part of that child rights impact assessment could very well be a copy and paste job but maybe with a couple of extra sentences where you will have to account for those differences. Having had to go through the process of thinking about it and trying to understand yourself what impact it will have on children will help embed that culture that we are trying to build, where we consider the impact on children in everything we do, whether it is government departmental or whether it is us as States Members with the propositions that we bring to this Assembly. It really will not be onerous. We have a fantastic support team in the States Greffe, which has been expanded in recent years, that is more than capable of helping us if we think any of this might be tricky at any point. But requiring us to ask ourselves the question: how will this impact on children so that we can reference that in a debate and have all of us, as Members, understand the impact that the decisions we make have on children can only possibly be a good thing. I am very surprised that there would be opposition to this, it is not onerous, it does not turn it into a tick-box exercise, it just asks us as States Members to be more cognisant of the potentially extremely important impacts of our decisions on the children who we have signed up to put first. I am wholeheartedly in support of this amendment.

2.1.3 Deputy J.A. Martin of St. Helier:

I have been to all of the States Members briefings and I have had a couple of separate briefings on different issues because of an interest I had before. This was spoken about and was it not going far enough but then was it going too far because it is a lot of extra work. Then my mind was made up by what Senator Mézec has just said. The proposition will have a full detailed C.R.I.A. Anything that comes after that, if it can have, it is not prohibitive, somebody can still do one, but if it is an amendment that the Senator describes as something that would completely alter what the Minister for Children and Education, I would imagine, or Housing or anything that affects children's lives in Jersey is so preposterous and so out of the box it would not get voted through anyway, but why then ... the step back was literally sometimes you see a little thing in a proposition that you only want to lodge or only have to lodge an amendment to amendment I think a week, maybe 2, and it is urgent you get this in but you cannot do a C.R.I.A. You would do it obviously if you are taking away the rights because you would have to try and make your argument. The argument should be in here. I think in the Minister's mind, the officer's mind, and I know there is moral support been put into the Greffe, it was about not stopping Back-Benchers who may not have so much support to be able to bring these amendments on the floor of this Assembly where the decision is made, if that person who has brought the amendment has basically thrown the C.R.I.A. out with the bathwater. It is a start. I am erring on the side of the Minister having spoken to all of the officers who were trying to be helpful, trying to make sure that there are no rights taken away from a Back-Bencher at all. It is up to the Assembly, I do think it will just ... you heard the Minister say: "Let us do this for a year or 2 and if it is abused obviously you make it compulsory." I do not think it is necessary at the moment and I really do think it could have unintended consequences. Deputy Ward and Senator Mézec are all about defending the democracy of this Assembly and anybody could bring anything but only if you have a C.R.I.A. It does not make sense to me on an amendment to an amendment.

2.1.4 Deputy J.H. Young of St. Brelade:

I was not able to go to the Ministerial briefing and I am grateful to the Minister for Social Security for telling us what was what. I can agree with both sides here and am a little bit troubled that we are forced to make decisions.

[10:00]

Clearly it is right that we do these assessments, it is part of the commitments and journey, but I think what I would ask the proposer to address when he sums up, what prevents anybody that is bringing an amendment getting the right assessment and making their case anyway? Nothing. Obviously if you are going to bring an amendment to something which is a change in government policy you are going to have to make your case. If there is a great big hole in it because you have not done the work, you know, as the Minister said, you are not going to get there. I think the question is that in my sort of working life I have always worried about creating over complex procedures. Certainly, when you hardcode them into a law, and this is a law. I think the kind of approach that I would have felt more comfortable with is where you can do these things by regulation or order because it allows more flexibility to adapt. Do you need to hardcode this degree of detail into a law which has to go through the Privy Council and all that stuff? Do you need that? That is the question I would ask the proposer to speak to. I can understand both points of view. We need these assessments. But there we are, I will make the decision on how I vote when I hear the arguments in summing up.

2.1.5 Deputy M. Tadier of St. Brelade:

I think we have started off on the wrong foot here because the way I look at this, this amendment makes entire sense. The equivalent I think is the financial and manpower impact assessment like we already have on all propositions and not all amendments. You can argue against the financial and manpower if you want to, as you can argue against the child rights impact assessment, but we are not talking about that now, we are talking about the amendment to this. It makes entire sense. Of course, if you were to bring a proposition which amended something and had financial manpower implications which were different to the original proposition, of course you would say that in your amendment because you are talking about the money. You are talking about this project of the Minister was going to cost or save £200,000, my amendment requires us to spend £100,000 more so you need the Assembly to know about that. If it is required of any Member who lodges the main proposition to put a child rights impact assessment in it and then an amendment comes along, either it does not affect the child rights, therefore you just say that. You say: "Refer to the main proposition which says this and in fact this amendment does not change it." But if, in fact, the amendment does affect child rights ... let us give an example from yesterday. Imagine a Member puts in an amendment to a proposition saying the police should be allowed to use Tasers on 12 year-olds in exceptional circumstances. That completely changes the child rights impact assessment statement that would have been given on the main proposition. Similarly, if you were to do something opposite in a different proposition. I think Members are arguing at cross purposes and I would say there is a valid debate to be had on the main proposition about where do you stop. Deputy Ward will not mind me saying that we have had these discussions in our group when thinking about the wider issues because, of course, you would not want to see a whole load of obstacles coming up that mean that when you a lodge a proposition or an amendment you have to consider financial manpower, human rights implications, child rights implications, maybe the effect on Jersey's international identity. You might have to put in a statement about how it affects Jersey tourism and tourists coming to the Island and the perception of Jersey. It may be Jersey's image as a finance centre around the world. Where does it stop? Those are legitimate arguments to be made against the C.R.I.A. per se but it has nothing to do with this amendment. The amendment is just asking for consistency in approach. I would say to the Members like Deputy Young and Deputy Martin, these arguments are not for this particular amendment. To be consistent this amendment only makes it better and a coherent position should be taken. But, of course, if you do not like the Minister's proposal then we are at liberty to not support that.

2.1.6 Senator J.A.N. Le Fondré:

Just briefly, I know some people are trying to make light of it but I was particularly struck by the comments from the Minister to the amendment, which basically does say, for example, that this amendment would have captured most, if not all, of the amendments in the Island Plan debate that we have just finished over the last 2 weeks. Is that something that Members think is a balanced approach to what obviously is a new law. That is what the comments say and I think therefore it is the unintended consequences of what Deputy Ward is seeking to achieve. If the Assembly want to go that way then that is what the Assembly want to do but it is the consequences of opening up, bearing in mind as Deputy Young referred to, there is nothing that inhibits a Member putting a C.R.I.A. in if they wish to outside the original proposals in the original proposition. It is a matter for the Assembly but there is that point about unintended consequences and that could mean time, it could mean resource and all those type of things. Yes, it is about putting children first but I would have said that the path suggested by the Minister is a balanced one in terms of where we are going, which is completely new territory.

Deputy R.J. Ward:

May I just have a point of order? It is not my amendment, it is an amendment from the Children, Education and Home Affairs Panel. I think that is an important point in terms of the personalisation of the amendment. It comes from the panel, not just myself. Just to make that point.

The Bailiff:

I do not think that really is a point of clarification but it is arguably a point of order that the current originating proposition should be identified. It has been done now.

2.1.7 Senator T.A. Vallois:

I am speaking as a member of the Scrutiny Panel and I think it is very important to make it very clear what the amendment is trying to achieve because in some of the speeches so far it has referred to C.R.I.A.s as a whole. What we are asking is that what we have is a preliminary assessment, which is just the very first step of the C.R.I.A. process. That is to be undertaken on all forms of propositions and amendments to propositions and amendments to amendments. It would not, however, require a duty bearer to undertake a full C.R.I.A. if the preliminary assessment identifies that one is required. The discretion to do so rests entirely with the duty bearer themselves and, of course, if we refer to the Children's Commissioner's advice with regards to this legislation they do refer to, I believe it is Article 12, that is of course the children rights scheme and the expectations on Ministers as duty bearers that there should be some form of guidance as to when a full C.R.I.A. should be applied. The Children's Commissioner has referred to the expectation that they will have as an office to monitor this discretion. I think it is important for me to read for the Assembly Article 6(8) which the Children's Commissioner refers to in her advice: "Nothing prevents an Article 6 duty bearer from completing a full assessment should they wish to do so. This introduces discretion. Article 6 duty bearers are Ministerial duty bearers." The Children's Commissioner would suggest that a proper assessment of the impact of policy and law decisions on children's rights should always been the choice of Ministerial duty bearers and suggests that the children's rights scheme provides guidance, which I have already referred to. They could decide not to carry out a C.R.I.A. even if it is abundantly clear that the decision will have an impact on children. Research suggests that where a C.R.I.A. is discretionary there is a tendency to disregard its application even to policies likely to impact on children. The Children's Commissioner understands that the risk of requiring a C.R.I.A. for everything is that the quality and value of the C.R.I.A. is diminished and it becomes a mere tick-box exercise, which is of course what the Minister referred to. However, they also go on to say that there is a balance to be struck. The reason why I read that out is because I believe what we are trying to achieve as a Scrutiny Panel here is having that balance and asking for a preliminary assessment. This is going to require a cultural change and a need to ensure that Members are up to scratch with regards

to considering children's rights when bringing forward propositions. The forthcoming of this legislation in terms of its enactment will not be achieved until such time as, at the moment, bearing in mind we have another amendment to bring forward as a panel, a Ministerial Order is made to enact parts of the legislation. That will give Members the appropriate time to determine, especially under the children's rights scheme as well, which the Minister will have a duty to put together and have guidance under, a clear expectation on how that preliminary assessment and the full scheme, in terms of the full C.R.I.A. will work. I just wanted to make it very clear that it is not a full C.R.I.A., it is a preliminary assessment and I would ask Members to just consider having that discretion as to whether what we are trying to do here is actually to have a balance and to try and encourage that cultural change just by having that preliminary assessment.

2.1.8 Senator K.L. Moore:

I entirely endorse the comments of Senator Vallois so I will be extremely brief. But taking very seriously our commitment to putting children first, at the beginning of this term the Scrutiny Liaison Committee set out to include the impact upon children in every single one of our scoping documents and I believe that the Children, Education and Home Affairs Scrutiny Panel are doing exactly that in bringing this amendment and impressing upon the Assembly the importance of taking children's rights into account at every step along the legislative process, whether that be in an amendment or an amendment to an amendment. I will certainly be supporting them.

2.1.9 Senator I.J. Gorst:

I am pleased to follow Senator Vallois but I think I am more in the position of Deputy Young. This is a difficult area to get right. Providing a C.R.I.A. is not as straightforward as it might on the surface appear and Government is resourcing itself to be able to do justice to the policy intent of providing C.R.I.A.s. On the other hand, there is an argument that says that the legislation before us has been - this is not a parliamentary term - in effect watered down to the lowest possible common denominator in order for us to start somewhere. That is always a valid position to take when you are changing something as dramatically as we are changing and taking children's rights seriously in the processes of this Assembly and of Government. There is no shame in that per se. This is the difficulty that Members face today. Is it at the right level or should there be obligations on Members who are bringing forward amendments or amendments to amendments to also consider the impact on children's rights and start to do a preliminary assessment? The reason it is a difficult question to answer is because it has to be somebody appropriate to do a preliminary assessment and then, if necessary, to do a C.R.I.A. We have become a little bit used, it is fair to say when it comes to financial and manpower implications on propositions, to being much more lax than we were 15 years ago. Fifteen years ago when I first started in this auspicious place propositions were rejected because there were not detailed financial and manpower implications and they were not sufficient. You jolly well knew that you had to properly sharpen your pencil and provide the detail in conjunction with Treasury otherwise, Sir, your office would say no.

[10:15]

But of late it is fair to say, and we all do it for political ends, we have got into the habit of saying: "We do not really think there are manpower or financial implications with this particular amendment because later down the line someone will have to do something else and that will give effect to the financial and manpower implications." Later today or tomorrow, or who knows if we all keep speaking at the length, I am doing it might be later next week, the Deputy of Grouville is asking us to amend all propositions which would put in and consider Island identity proposals. That perhaps is slightly more straightforward because that is very subjective. Very subjective. I am not sure that your office will be able to do anything other than wave those through however flimsy they are because otherwise you are putting yourself into the political domain. That is a discussion we will have when we get there. I do think there is a legitimate argument that Members who vote in favour of this

amendment, and I am getting to where I might be, there is a legitimate argument to say that it will curtail the freedom of Members to, on a Friday afternoon, lodge an amendment, send it to the Greffe on Sunday afternoon after they have had a good think about - I will not say after a good lunch - during Sunday and then expect it to be lodged on Monday. That will not be possible if we accept this amendment. That is not necessarily a bad thing because we should be appropriately considering children's rights in what we are doing because we have undertaken as a legislature or as a Parliament and as a Government to do just that. It will be more bureaucratic. I take the view the bureaucracy per se is a bad thing unless you can see a very positive action orientated outcome from it. I see what the Minister is saying in regard to let us just start with where we are and then revisit later to get the overall clear writing and assessments right. I do worry about this. I worry that Members will just amend proposals that have C.R.I.A.s in them and have no obligation to consider the child rights in that amendment. Therefore, the argument will simply be political and subjective on the floor of this Assembly. Yet that is the very thing that we are trying to move away from when it comes to the effect upon child's rights across our community. For me it is a finely-balanced issue, but I do ask this: that Members make their decisions with their eyes open. There are great positives of accepting the Scrutiny Panel's amendment but we must also be clear with each other that there are what some would perceive as negative implications and curtailment potentially of the freedoms that we, as Members of this Assembly, have enjoyed for many years, that they would be curtailed in the interests of children. I think that would be legitimate reason to curtail them.

2.1.10 Deputy G.C. Guida of St. Lawrence:

Very quickly, just a couple of things. The first one is that of course this was my single term in the States so I do not know how things happened in the terms before but my memory of this is that I have never had a comfortable time lodging anything, whether it was a main proposition or a law or an amendment, it was always done in the last minute because it takes a long time to prepare, it takes a long time to react to a main proposition and it takes some time to go the Greffe. Then it gets lodged and for some reason it always seems to happen 10 minutes before the lodging deadline. So I feel that adding anything to slow down the process is going to be very damaging to people presenting amendments to amendments, and even worse amendments to amendments to main propositions. Again, I think it will be quite dangerous to slow down that process. The other thing, and it has already been mentioned, is the fact that the main proposer, having done a proper C.R.I.A., will be extremely familiar with what is in it and, of course, extremely familiar with their own proposition and therefore able to find, in an amendment, any problems with that assessment. If the proposer of an amendment has not done all their homework on a children's right assessment it would be extremely easy for the main proposer to take that apart during the debate. So, in the principle of allowing Assembly Members a quick pass to amendments I would rather vote against this amendment.

2.1.11 Connétable M.K. Jackson of St. Brelade:

While I endorse the sentiment behind the proposition and the panel what worries me is, as Senator Gorst indicated, bureaucracy. Over many years there was an inclination of the Government to reduce red tape. This is increasing red tape and surely it does no one any good. I think any States Member who brought a proposition or amendment to a proposition or an amendment to an amendment without considering the C.R.I.A. in any shape or form would be very misguided and the amendment would be very unlikely to succeed. In truth, we are creating a little bit of an increase in red tape unnecessarily so would be inclined to vote against the amendment.

2.1.12 Deputy K.G. Pamplin of St. Saviour:

I came to this debate with an open mind and listening to both arguments but I just come back to the point of perception for me. This is the Assembly where decisions are made, as Senator Gorst alluded to, and it would be, for me, a very strange perception that an amendment or an amendment to an amendment on a proposition that may directly or indirectly impact children that the person who

thought very hard and had done their own research does not decide that it deserves to be done at the same time when we are talking about children. I just think that, for me, is the stronger argument at this point. We are either committed to the things that people have signed or we are not. I think it is being seen as an obstacle. I do understand the bureaucracy, as Deputy Guida explained, being only here for 4 years but as somebody who has lodged amendments I have great faith in the Greffe staff and the people who are committed to seeing this through. Surely it is a question of equality and the history of this Island that we do this because we are all equal in this Assembly and anybody has the right to bring an amendment or an amendment to an amendment committed to the things that we all agreed, surely it is the perception that sends the message out to this Assembly that we are committed to doing these things. I understand the argument about we have to take sometimes more incremental steps to increase but when I think about what we are talking about there, the rights of the children, surely it should not be seen as an obstacle. If it takes extra resource and an extra thought process for the impact on children then I think it is worth all of that and more.

2.1.13 Deputy R.J. Renouf of St. Ouen:

I would like to pick up that point about perception that Deputy Pamplin has made. I think there is equally another perception that could arise, which is the fact that we mire ourselves in red tape. I would have thought ... remembering an amendment is not a new proposition, it is not introducing a new concept, it is part of the same debate. I would have thought the proposer's C.R.I.A. would have covered all aspects should ... and I am sure those drafting it and assisting with it would ensure it covers all aspects of the subject insofar as concerns children's rights. The proposed amendment may not impact on children's rights to that extent so to mandate a further C.R.I.A., why would that be necessary, why would all that work be necessary. The perception that we just mire ourselves in red tape because we are terrified perhaps of not showing that we always consider putting children first. We can put children first without having a plethora of C.R.I.A.s during a debate because the primary C.R.I.A. in the proposition should encompass all aspects. As has been said, if the person amending thinks that a further C.R.I.A. should be added then its within his or her ability to do that but to make it a mandatory rule in a piece of legislation that we are putting before the Privy Council to endorse, which we cannot change at all without so much fuss afterwards, well that is just a perception I think we should not go down.

2.1.14 Connétable A. Jehan of St. John:

We have heard a lot about slowing down the process. I do not think it is about the speed, I think it is about the quality and if we can improve the quality of the process then we should do all that we can. Senator Gorst said we are going to be debating the Island identity later in this sitting. That is about our brand. Our brand is based on our values and if putting children first is part of our values we should live by our values and do exactly that. Someone else spoke about bureaucracy. I would like to call it governance; not bureaucracy, governance. I would suggest best practice is something this Assembly should follow at all times. I have been shocked at the quality of some of the reports I have seen, some of the statements I have seen. This is an opportunity for us to demonstrate that we have thought about the proposition, the amendment, the amendment to the amendment, et cetera. The amendment is coming from the Scrutiny Panel. The Scrutiny Panel do not have the resource that the Minister and Government have but it is the Scrutiny Panel that is putting this forward and I would urge Members to support this amendment.

2.1.15 Deputy J.H. Perchard of St. Saviour:

I think it would be very helpful in the summing up if the proposer could address some of the comments made by the Minister for Health and Social Services. I do question the validity of the point that amendments are surely covered by the C.R.I.A. of an original proposition. I do not think that that assumption is necessarily true in all cases but I would like the proposer to clarify whether in the cases where that is the case, where amendments or amendments to amendments are in fact covered

by the C.R.I.A. of the original proposition whether a simple statement to that effect would be suitable and sufficient in terms of that Member providing a C.R.I.A. if this adopted. I think if that is the case it makes this a lot easier for the Members who have spoken against it to support to it. Of course it is problematic and Deputy Tadier outlined some of the concerns that I had around the question of where do we stop. Are we going to start introducing a requirement for Members to carry out an environmental impact assessment, which is obviously what I was thinking of with my current hat on as Assistant Minister for the Environment? I think while these problems are real I do not think that this debate is relevant to the discussion of those problems and that is because, as Deputy Tadier rightly said, this debate is about extending something that the Minister is proposing for consistency in the same way that we have financial and manpower requirements on everything that we lodge.

[10:30]

I think that argument for me was the most powerful because I do share a lot of the concerns that have been raised that this debate is not going to address that either way. Those concerns are not going to be solved by voting for or against this amendment. This is simply, for me, about making what the Minister is proposing consistent around everything that we lodge. That makes a lot of sense to me. I think a conversation does need to be had around these kinds of things, these additional assessments Members have to make. Obviously, there is a fundamental difference between the financial and manpower requirements and this, I suppose arguably the financial and manpower statement is an internal reflection on our resources to deliver a proposition. Do you we have the money? What impact is it going to have on officers? Do we need to recruit someone to fulfil it? That is an internal reflection on resource whereas this an external reflection on the impact of a group. So, there is that fundamental difference and one could argue that the former makes a lot of sense but the latter is problematic because, as we have already alluded to, where do you stop, what other groups should we be considering? Should we be talking about the impacts on women? Should we be talking about the impacts on the elderly population, the vulnerable, those on low incomes or the environment? That question does need to be addressed at some point by the Assembly and, in terms of process and procedure, that is a legitimate question and concern. Maybe in the future we will decide that there is a different way but the 2 things I would say about that are, firstly, if Members are not thinking about the impacts of their propositions in that level of depth to start with I think there is a problem. I think that every time we lodge something we should have considered the impact on society and its groups, and paid particular attention to the vulnerable members of society. Whether or not we have to evidence it is another question and whether or not that evidence needs to come in this format is a third question. But I think the most convincing argument we have heard in this debate is from Deputy Tadier, which is this is not about those questions, this debate is about extending something that has already been proposed for consistency across how we lodge things. For me, while there are issues and problems and questions this is not about this debate and just on an unemotive level, on a practical and logical level, I just think it does not make sense not to support this.

2.1.16 Connétable D.W. Mezbourian of St. Lawrence:

I just want to speak briefly because when I saw the amendment it seemed pretty straightforward to me, I thought I would be able to accept it and I was surprised when the Minister spoke against it. We have heard a variety of views, I am not quite sure how it is ... I think it may be evenly split from those who have spoken but a couple of speakers caught my attention. One was Senator Gorst when he said that ... I understood him to say that additional resources are needed to manage this change and I think by that I took it that he meant that potentially additional staff will be needed within Ministerial departments to manage this. He was not clear but that struck me. It does seem that it is going to be certainly a task that requires some thought. Deputy Martin caught my attention as well when she mentioned the potential difficulties that Back-Benchers may face. Deputy Ward has brought this as chair of the panel, as he has reminded us on a couple of occasions, but he brings many propositions and indeed amendments in his own right. I would like him to offer us his thoughts on

what the impact could or would be on Back-Benchers. The other Member that caught my attention was the Constable of St. John when he said this is about good governance. That is what we should be aspiring to in everything we do, whether it be within this Assembly or in our responsibilities that we have outside of this Assembly. I am torn at the moment as to which way I am going to vote on this amendment. I would say to Deputy Ward that it does depend on how he sums this up for me.

The Bailiff:

Thank you, Connétable. Does any other Member wish to speak on the amendment? If no other Member wishes to speak, I close the debate and call on Deputy Ward to respond.

2.1.17 Deputy R.J. Ward:

It is a nice place to finish, it depends how I sum up. There is no pressure then. I think I will start with that. Yes, this was brought from the panel and I have brought a number of things as a Back-Bencher, I produce C.R.I.A.s with everything I have produced because I think they enriched the work that I did and it links on to good governance, which was mentioned by the Constable of St. John. I did that because I think it is the right thing to do because we have incorporated the U.N.C.R.C. and so therefore it is within my role to account for that where it is necessary. I did that by getting help from the Greffe and the extra staff in the Greffe that have done that anyway and will help with these assessments. You could also use the Children's Commissioner and her office who are quite happy to consult with you. In doing so, yes, it may take me a little bit of extra time but it enriched what I did. I think I came to this Assembly with a greater argument and to some extent it made me persist in what I believed in and come back again and again because I thought it was the right thing to do for children because I have been looking at that. So, I hope that reassures. That brings me on to a key part of this. A number of speakers, and I will not go through all the names because I want to make this as quick as possible, talked about this being bureaucratic and red tape. This is about a cultural change and I think those expressions from Members in this Assembly, very experienced Members of this Assembly as well, that this is about bureaucracy and red tape demonstrates the desperate need for this to happen in order that we understand this cultural change. This is not about red tape and bureaucracy, this is about us adopting the U.N.C.R.C. charter on rights for children seriously in this Assembly and considering it in everything that we do. The process itself is only as onerous as we make it and we do not have to make it onerous. The point Deputy Perchard said about the main C.R.I.A., the Deputy was absolutely spot on with the question that was asked there and that question about can you refer to the main C.R.I.A.? The answer is simply yes. If you are bringing an amendment which does not affect the main C.R.I.A. on the proposition I would suggest that the C.R.I.A. that I would produce is: "Please refer to the main C.R.I.A. in the proposition." End of conversation. But what that has meant is that I have read the main proposition and considered what is in it when bringing my amendment, thus enriching what I am doing and it brings good governance. That is a very important thing to do. I do not think the C.R.I.A.s have to be particularly difficult. However, if I am bringing an amendment which is particularly affecting that main amendment and the impact on children, if I am genuinely to be committed to putting children first and adopting the U.N.C.R.C. I have to produce a proper assessment of that. Let me ask this one question of Members of this Assembly, and this is a point that came to me, if we adopt an amendment it becomes the proposition and the unintended consequences of not producing C.R.I.A.s or referring to a C.R.I.A. as a preliminary assessment in the amendment will mean we could adopt a proposition amended that has not therefore had an appropriate C.R.I.A. attached to it. There is a logic to this which we need to follow through and I think that is very important. That is a very important point to be made. The key thing is that, and I urge all Members who have talked about red tape to consider this, we are looking at a preliminary C.R.I.A., i.e. I look at a proposition and I think I would like to amend a couple of words in that because I think it will be more successful if it is the case, I look at the C.R.I.A., I look at my preliminary C.R.I.A. and think: "Do I have to change anything in that? No, I do not, I can refer to this now with my preliminary C.R.I.A. and say my C.R.I.A. is saying I do not need a full

C.R.I.A. on my amendment.” That is it, that is the end of it. But, again, and this a very key point, if my amendment is changing it so significantly that the impact on children is completely different and we are genuinely as an Assembly to consider the impact on children, then I am afraid, yes, I do have to produce a C.R.I.A. and that is a piece of work I have to produce. I do not see it as an extra piece of work, I see it as a different piece of work. I think that is what the panel was trying to bring forward. A cultural change is about looking at things differently and the difference we are making is we have adopted the U.N.C.R.C. human rights convention for children and we have said we will put children first. I think it is very important that we make that key point. I thank the Minister because he has brought this ... we do support the idea of C.R.I.A.s and I did say: “Let us be positive in this.” To the Chief Minister, I believe that the bridging Island Plan did have a general C.R.I.A. to it, a large C.R.I.A. that was accompanying it. I believe the Government Plan would have that. I would say to the Chief Minister that that important piece of work done by Government in those plans enables Members to very quickly say: “Can we refer to that C.R.I.A. in our amendments and just bring a simple C.R.I.A. to it?” I see the Chief Minister shaking his head, I do not understand why. There should be C.R.I.A.s attached to those things if we are going to produce them. In the main proposition, which I hope is accepted - and I do hope you accept this amendment - then that will happen. This is not about just added bureaucracy or red tape, I am someone who really does not want red tape in what we are doing. I am someone who has talked about resources for Back-Benchers and will continue to bring, as long as I am in this Assembly, propositions as a Back-Bencher but I genuinely do not see this as anything other than improving what I am doing because I am considering something very carefully when I bring my propositions. I think, and I would urge, as we have committed to put children first, we have accepted the U.N.C.R.C. rights. There is one big difference with this, it is based upon an internationally recognised agreement, the U.N.C.R.C. and a set of criteria. It is not something generic or non-specific, there is something genuine and real behind it that we have adopted. I say to Members, if we do not do this then we are only going half the way to where we want to be and this is an opportunity for us to send a clear message to people out there, a clear message that says we are serious about taking children rights seriously and we will do it in everything that we do without making it an onerous and bureaucratic process. I make the proposition and I urge Members to accept the amendment.

The Bailiff:

Very well, the matter goes to the vote. The vote is on the second amendment. The Members will remember it amends Article 6 and amends Article 7 and schedule 2. The vote is on that. I ask the Greffier to open the voting and Members who are joining by Teams, please indicate their vote in the chat. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting.

[10:45]

The amendment has been adopted.

POUR: 25		CONTRE: 18		ABSTAIN: 0
Senator I.J. Gorst		Senator L.J. Farnham		
Senator T.A. Vallois		Senator J.A.N. Le Fondré		
Senator K.L. Moore		Connétable of St. Brelade		
Senator S.W. Pallett		Connétable of Grouville		
Senator S.Y. Mézec		Connétable of St. Peter		
Connétable of St. Helier		Connétable of St. Ouen		
Connétable of St. Lawrence		Deputy J.A. Martin (H)		
Connétable of Trinity		Deputy K.C. Lewis (S)		
Connétable of St. Mary		Deputy J.M. Maçon (S)		

Connétable of St. Martin		Deputy S.J. Pinel (C)		
Connétable of St. John		Deputy of St. Ouen		
Deputy G.P. Southern (H)		Deputy S.M. Wickenden (H)		
Deputy of Grouville		Deputy J.H. Young (B)		
Deputy M. Tadier (B)		Deputy L.B. Ash (C)		
Deputy M.R. Higgins (H)		Deputy K.F. Morel (L)		
Deputy of St. Martin		Deputy G.C.U. Guida (L)		
Deputy of St. Mary		Deputy of St. John		
Deputy G.J. Truscott (B)		Deputy S.M. Ahier (H)		
Deputy of St. Peter				
Deputy M.R. Le Hegarat (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

2.2 Draft Children (Convention Rights) (Jersey) Law 202- (P.19/2022) - resumption

The Bailiff:

Minister, do you now move Articles 7 to 15, the next amendment being related to Article 16, so 7 to 15, Article 7 of course being moved as amended?

Deputy S.M. Wickenden:

Yes, please, if I can.

The Bailiff:

Do you wish to speak to them at this point or simply to take questions?

2.2.1 Deputy S.M. Wickenden:

I would like to speak to them. I think it is worth reading out their effects. Article 7 provides further clarification about the duty to prepare C.R.I.A.s and establishes a 2-stage C.R.I.A. process. Article 7 also sets out the C.R.I.A. requirements for duty bearers who are seeking the urgent debate of a proposition. Following the adoption of the second amendment that we just debated, duty bearers who are formulating an amendment to a non-exempt proposition will be required to prepare and publish a C.R.I.A. for every assessment but may choose to complete a full assessment where the decision is likely to have an impact on children. Article 8 extends the due regard duty of Ministerial duty bearers. This requires them to have due regard when discharging any of their functions and when formulating all types of policy. Unlike Article 6, preparation of a C.R.I.A. is not a statutory requirement under Article 8. Article 9 requires the public authority duty bearers named in schedule 1 to have due regard for making decisions about the discharge of their functions or the provision or regulated activities or services. Article 10 describes the general obligations of duty bearers. These are to promote knowledge and understanding of the convention, to ensure complaints are handled in a child-friendly manner, to have due regard to the views of children affected by the decisions they make and with the exception of elected Members duty bearers to report regularly on how they have fulfilled their due regard duty. Article 11 establishes the Minister for Children and Education's general obligations under the draft law. These are to oversee the implementation of the draft law and the operation and revision of the children's rights scheme and to promote the States fulfilment of its

obligation as a state party to the U.N.C.R.C. Article 12 requires the Minister for Children and Education to develop a children’s rights scheme as the statutory guidance document to support duty bearers to fulfil the due regard duty. The scheme will include arrangements for the provision of training and support, presentation and annual reports, completing and publishing C.R.I.A.s, evidencing the due regard duty when a C.R.I.A. is not undertaken and any other matters the Minister considers appropriate. Article 13 establishes the requirement for the Minister for Children and Education to revise the children’s rights scheme. This must take place in the year following each periodic report cycle for the U.N.C.R.C. and requires the Minister to consult named stakeholders on any proposed major additions to the scheme. Article 14 establishes that powers under the draft law to amend a provision includes the power to make any consequential amendment considered necessary. Finally, Article 15 of the draft law will amend the Commissioner for Children and Young People (Jersey) Law 2018 to update references to the Public Accounts Committee and its chair and the Scrutiny Liaison Committee and its president. With that I propose the Articles.

The Bailiff:

Are the Articles 7 to 15 seconded? **[Seconded]** Does any Member wish to speak on Articles 7 to 15? If no Member wishes to speak on any of those Articles then I close the debate and open the voting and ask Members to vote either in the Chamber in the normal way or in the chat as appropriate. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. Articles 7 to 15 have been adopted.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				

Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

There is an amendment that is proposed to the final Article 16. You are not accepting the amendment, are you, Minister?

Deputy S.M. Wickenden:

No, I am not.

The Bailiff:

Very well, would you like to propose Article 16?

Deputy S.M. Wickenden:

I will just propose Article 16 and then move to the amendment, I will follow on if it is amended from there.

The Bailiff:

Indeed, is Article 16 seconded? [**Seconded**]

2.3 Draft Children (Convention Rights) (Jersey) Law 202- (P.19/2022): third amendment (P.19/2022. Amd.(3))

The Bailiff:

There is an amendment to Article 16 and I ask the Greffier to read the amendment.

The Deputy Greffier of the States:

Article 16 - In paragraph (3) for “the Minister by Order” substitute – “the States by Act”.

Deputy R.J. Ward (Chair, Children, Education and Home Affairs Scrutiny Panel):

Senator Vallois will be acting as rapporteur.

2.3.1 Senator T.A. Vallois (Children, Education and Home Affairs Scrutiny Panel - rapporteur):

This amendment proposes a change in the manner in which the draft law is brought into force. Currently as worded it states that the remainder of the legislation, other than Article 15, which is due to come in in 7 days would be brought through via Ministerial Order. The panel is concerned about

the use of orders to bring legislation into force. Although the Minister has given assurances that all parties will be communicated with prior to the law coming into force to ensure readiness of all duty bearers, we believe there is a risk that this approach may not be adopted by a future Minister. It is important to note that the implementation of this draft law will straddle 2 States Assemblies. Given the possibility that the make-up of the Assembly may be considerably different after the election, including potential new Members of the Assembly without prior knowledge of this legislative development, it is a vitally important that all Members within the new Assembly are provided with adequate information as to their duties in relation to this legislation. One key component - and it states in the report to the legislation itself - is this being about significant cultural change. The importance for Members to understand their duties under this legislation and have the requisite training that should be available to them before the remainder of this legislation comes into force, I believe, will be extremely important for all Members going forward. The panel's amendment, therefore, provides an opportunity for the future Assembly to confirm its readiness or not prior to the draft law and its associated duties being brought into force. I make the amendment.

The Bailiff:

Is the amendment seconded? [**Seconded**] Does any Member wish to speak on the amendment?

2.3.2 Deputy S.M. Wickenden:

I do not accept this amendment which proposes that the majority of the draft law should be commenced by an Act of the States rather than a Ministerial Order. For clarity, just 2 Articles of the draft law, Articles 15 and 16 will come into force 7 days after its registration. These deal with the arrangements for commencement and make certain amendments to the Commissioner for Children and Young People (Jersey) Law 2019. Following the election the next Minister for Children and Education will need to determine the readiness of all groups of duty bearers identified in the draft law. The Minister will also need to ensure that appropriate training and resources are available to support these duty bearers to prepare for the law to come into force. Commencement of the law by order will not take up valuable Assembly time in a new Assembly but will instead require the new Minister to determine when it will be most appropriate to enact the remainder of the law. This will, of course, be based on an assessment of readiness in consultation with duty bearers. I believe that if we approach the duties instituted by the draft law as a shared endeavour this will ensure its successful implementation but we must make sure that we are not setting up the duty bearers to fail before we have begun. I am confident that the Minister can identify an optimal date that balances the need to prepare for our shared ambition to see this legislation is enacted. I feel that there is a fear, certainly in the proposer's speech, that whoever the next Assembly votes in as the Minister for Children and Education might not support the values of writing the order and following through on the decision of this Assembly to enact the U.N.C.R.C. in creating C.R.I.A.s and duty bearers but the same would happen ... you would be expecting the new Minister for Children and Education to bring forward a proposal to the Assembly in the same order so that trust should be on both sides. If the new Minister for Children and Education is not aligned they will not bring forward the enactment date to the Assembly like they will not bring the order, but it will be up to the new Assembly to challenge the new Minister for Children and Education that put themselves forward for that position on such. The new Assembly when it is created will have to be dealing with a lot of setting up of the Assembly and I think that this will take up valuable time. I know there are some Members who do not like orders in the Assembly and they feel that absolutely everything should come to the Assembly. There are inherent risks in such that would, could and possibly might change what we are trying to achieve today, therefore I ask Members to reject the third amendment.

The Bailiff:

Does any other Member wish to speak on this amendment? If no other Member wishes to speak on this amendment then I close the debate and call upon Senator Vallois to respond.

2.3.3 Senator T.A. Vallois:

Just briefly to respond to the Minister, and I respect what he is stating, but there is concern, and I believe it is a valid concern, around bringing forward primary legislation by a Ministerial Order. I just want to remind Members what that means, is that if the Assembly are not happy with regards to the legislation coming in at a certain date, the only way and the only recourse they have with regards to that is bringing forward an annulment with regards to that specific area of the legislation. I would argue that the U.N.C.R.C. is not just the responsibility of one Minister, it is the responsibility of all of us, all elected representatives, to ensure that we are ready to take on this duty and we should all be partaking in that and ensuring that we understand our responsibilities. I believe because where we are, and straddling an election, I think it is more appropriate for a whole States Assembly, the full 49 elected States Members who will come in after the June election, to determine their readiness as to the duty that is placed upon them to bring forward a child rights impact assessment. This is what this amendment is asking, it is asking for an Appointed Day Act and I would argue it would not take up that much valuable time but it would give the opportunity for Members to show their readiness and understanding of what is being placed upon them. I make the amendment and I ask for the appel.

[11:00]

The Bailiff:

The appel is called for. I ask the Greffier to open the voting and Members to vote. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The amendment has been adopted.

POUR: 25		CONTRE: 18		ABSTAIN: 0
Senator S.C. Ferguson		Senator I.J. Gorst		
Senator T.A. Vallois		Senator L.J. Farnham		
Senator K.L. Moore		Senator J.A.N. Le Fondré		
Senator S.W. Pallett		Connétable of Grouville		
Senator S.Y. Mézec		Connétable of St. Peter		
Connétable of St. Lawrence		Connétable of St. Ouen		
Connétable of St. Brelade		Connétable of St. John		
Connétable of Trinity		Deputy J.A. Martin (H)		
Connétable of St. Mary		Deputy K.C. Lewis (S)		
Connétable of St. Martin		Deputy J.M. Maçon (S)		
Deputy G.P. Southern (H)		Deputy S.J. Pinel (C)		
Deputy of Grouville		Deputy of St. Ouen		
Deputy M. Tadier (B)		Deputy S.M. Wickenden (H)		
Deputy M.R. Higgins (H)		Deputy L.B. Ash (C)		
Deputy of St. Martin		Deputy G.C.U. Guida (L)		
Deputy of St. Mary		Deputy of Trinity		
Deputy G.J. Truscott (B)		Deputy of St. John		
Deputy J.H. Young (B)		Deputy J.H. Perchard (S)		
Deputy K.F. Morel (L)				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				

Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

2.4 Draft Children (Convention Rights) (Jersey) Law 202- (P.19/2022) - as amended

The Bailiff:

We now return to Article 16 as amended. Does any Member wish to speak on Article 16? If no Member wishes to speak on Article 16 then I close the debate. I will take this on a standing vote; it seems very clear. All those in favour, kindly show. Those against? It is clearly adopted on a standing vote. Very well, do you propose the law in Third Reading, Minister?

Deputy S.M. Wickenden:

Do you want me to read out about the schedules or do I need to propose them?

The Bailiff:

Yes, I beg your pardon, that is correct. I had assumed they had been covered by all of the amendments but I do not think they have. So, yes, do you propose the schedules, Minister?

2.4.1 Deputy S.M. Wickenden:

Yes, please. Let me just speak briefly to them. Schedule 1 lists the public authorities which have a duty under Articles 9 and 10 of the draft law and schedule 2 lists the exempt decisions under Article 6, duty to prepare a C.R.I.A. when formulating a proposition. It is as simple as that and I propose the schedules.

The Bailiff:

The amendment to schedule 2 was dealt with by the passing of the second amendment?

Deputy S.M. Wickenden:

Yes, Sir.

The Bailiff:

Are the schedules seconded? **[Seconded]** Does any Member wish to speak on the schedules? If no Member wishes to speak on the schedules then I close the debate and again I ...

Deputy S.M. Wickenden:

Can we have the appel for this one, please?

The Bailiff:

The appel is called for. I ask the Greffier to open the voting and Members to vote in the normal way. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The schedules have been adopted.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Lawrence				

Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Bailiff:

Do you move the law in Third Reading, Minister?

2.5 Deputy S.M. Wickenden:

Yes, please.

The Bailiff:

Is it seconded for Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading?

2.5.1 Deputy R.J. Ward:

Just very briefly to say thank you again to the officers who have done the work on this and the Minister and Ministers who have brought this forward. I think it is a very positive step forward for this Assembly and I recommend that we adopt.

2.5.2 Senator S.Y. Mézec:

I am very pleased to be supporting this in Third Reading, especially as the law has been slightly enhanced by the amendments which were accepted from the Scrutiny Panel. I am hoping of course that its adoption in Third Reading is a formality but this will mark a very important moment for Jersey in our journey towards putting children first and trying to move on from the Independent Jersey Care Inquiry and all of the recommendations that they made to us. I wanted to take the opportunity, assuming that this will be adopted now, to remind Members that this particular law to impose a due regard model on public authorities, the Government and States Members, was just one of the options which was considered at the start of this and that this may not be the end of our journey but in fact, I am hoping, simply the beginning of it. We do not have to simply settle for what is essentially an indirect incorporation of the United Nations Convention on the Rights of the Child in Jersey law. There are other options including full incorporation of that convention into Jersey law, much like the European Convention on Human Rights is, which would provide, in my view, even greater protections for children's rights and would provide a very clear route of challenge for when Jersey law is at odds with children's rights and enable those who fall victim to those breaches to have some form of redress through the court system. I am hoping that upon the adoption of this and it being embedded into our culture that we will be ready for that next step, which is the full incorporation of it into Jersey law and I hope that day comes sooner rather than later.

2.5.3 Deputy M. Tadier:

As Senator Mézec has already alluded to, this piece of legislation here brings us effectively full circle as to where we really started in the Assembly at the beginning of this term with the debate on the Independent Jersey Care Inquiry. I think this can be seen in many ways as a direct consequence of that, certainly the former would have catalysed the latter. I do add my thanks to all those who have been working, whether in the Assembly or elsewhere for this, and also to acknowledge now we are in hopefully, certainly a different, but in a better place than we were 4 years ago; we have a Children's Commissioner. I think it does not mean that everything in the garden is rosy or that all the problems have been solved but what it does mean now is that we have a proper framework in place. Here we have the black and white, the theory of the law, but it is really important that the practice on the ground is put in place by all of us and we have each got a job to do whether in the Assembly or in wider society. I will simply make this point mindful that it is the Third Reading but mindful of the fact that the law as it stands in itself is not enough, it is about how we practise that law and the wider philosophy behind it. There will be some interesting moments in the future with different strategies about to be launched and it will bring into focus how in the past perhaps we have not treated all children equally. I am particularly mindful of the children and families of immigrant extraction in the Island who do not have full rights in this Island. That is going to be something that needs to be looked at again and again, which is not an easy square to circle because we know that the Island wants to have some kind of population control, but at the same time it cannot be at the expense of vulnerable children and their families. I do say at this point when it comes to ... I do not want to stray too far because I am mindful ...

The Bailiff:

Well, you have referred to the fact that this is Third Reading twice, Deputy, and I think you must be alive to the idea that a debate in Third Reading should be entirely restricted to whether or not the Assembly should adopt the law in Third Reading. I have allowed rather a lot of leeway but in view of the amount of work we have got to do, I wonder if you could bring that to a close if you have nothing to add on that point.

Deputy M. Tadier:

I will; I will make these final remarks. I am mindful that I should be sitting down when you talk to me; I am standing up when I talk to you so I think that we have also become slightly lax in that regard recently. The point I would make in deciding as to whether to adopt this in the Third Reading, we have to just decide whether we are simply ticking a box and saying: “Okay, the law is in place now, my duty as a States Member has come to an end” or in fact what I would suggest is that, yes, absolutely vote for this in the Third Reading but be aware of the fact that we do need to continue. When it comes to those really difficult, practical decisions that maybe some Ministers in the future need to make about how we deal with those thorny issues around those families who have been here for less than 5 years, and I see the Minister shaking her head. I will give a practical example about somebody who is an immigrant worker on a 9-month contract. She may or may not have family here, young children, just injured her leg, a very bad injury, may need to get her leg amputated. She has been invited to Jersey to work for us, no healthcare, no insurance. How does that leave a vulnerable family potentially with young children in that situation? We are quite happy for families to come to Jersey in the abstract and practically to work for us but when these situations happen, how do we link that to the law that we have just passed today? I leave those comments there and I thank you for your indulgence.

The Bailiff:

Does any other Member wish to speak in Third Reading? If no other Member wishes to speak in Third Reading then I call upon the Minister to respond.

2.5.4 Deputy S.M. Wickenden:

I thank the speakers for their comments and speeches. The Draft Children’s (Convention Rights) (Jersey) Law 202- represents our enduring - my enduring - this Assembly’s enduring commitment to putting children first and will secure meaningful consideration of children’s rights within key decision-making processes. The draft law represents a robust model of indirect incorporation of the U.N.C.R.C. and has been welcomed by the Children’s Commissioner and our partners at U.N.I.C.E.F. (United Nations Children’s Fund) U.K. (United Kingdom) I am grateful to my Ministerial colleagues and especially the members of the Children, Education and Home Affairs Scrutiny Panel who have worked tirelessly alongside me and my officers and supported the development, the creation, the improvements to this draft law and I commend them for that. As the Minister for Children and Education I am extremely proud to commend this draft law to the Assembly and I propose it in Third Reading.

The Bailiff:

I ask the Greffier to open the voting and Members to vote in Third Reading. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The law has been passed in Third Reading.

POUR: 41		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				

Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

3. Draft Police (Complaints and Conduct) (Jersey) Law 202- (P.22/2022)

The Bailiff:

In accordance with the decision taken by the Assembly yesterday, the next item of public business is the Draft Police (Complaints and Conduct) (Jersey) Law, P.22, and the main responder will be the chair of the Children, Education and Home Affairs Scrutiny Panel, and I ask the Greffier to read the citation.

[11:15]

The Deputy Greffier of the States:

Draft Police (Complaints and Conduct) (Jersey) Law 202-. A law to replace the Jersey Police Complaints Authority with the Jersey Police Complaints Commission; to make provision in relation

to complaints about, or matters concerning the conduct of, or death or serious injury matters involving police officers or persons undertaking certain functions of police officers; for the disciplining of police officers; to amend the States of Jersey Police Force Law 2012 and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

3.1 Deputy G.C. Guida (The Minister for Home Affairs):

This Draft Police (Complaints and Conduct) (Jersey) Law is intended to provide a framework for an enhanced and modernised system to manage the conduct of people exercising police powers and complaints against them. Police officers hold a unique place in the community. We rely on the police force to keep us safe and to maintain the conditions for a stable and prosperous community. Police officers can carry out these tasks effectively because they are given powers to involve themselves in the lives of Islanders to use investigatory powers and even to use force on citizens where necessary. These exceptional powers mean that we need to hold police officers to a high standard of conduct, which is reflected in the need to have specific legislation in place to address how the conduct is monitored and how complaints against them are managed. This legislation will affect any person who can use police powers, including officers of both the States of Jersey Police and the Honorary Police forces. It will also encompass the use of specific police powers by civilians, for instance, when civilian investigators take statements from witnesses. It is in everyone's interests to ensure that there is a robust oversight of the police; however, we need to recognise that police officers are regularly asked to enter into potentially dangerous and volatile situations relying on their own training and instincts to take critical decisions on the spot. To reflect this, the law will provide a framework, not only for overseeing the behaviour of police officers and others, but also to establish protections and rights, for instance, the right to be kept fully informed about the progress of complaints alongside the complainants. Legislation is also required because in order to reflect the independence of the police forces from Government, police officers are not defined as States employees under the Employment of States of Jersey Employees (Jersey) Law 2005. Additionally, police officers require a degree of legal protection because they are so critical to the maintenance of a functioning society that they are forbidden from joining a trade union or engaging in industrial action. Currently, complaints against the police are dealt with under the Police (Complaints and Discipline) (Jersey) Law 1999 with disciplinary procedures for the Honorary Police and States of Jersey Police forces set out in respective orders. Separate arrangements for complaints against the chief officer and deputy are dealt with by the States of Jersey Police Force (Chief Officer and Deputy Chief Officer) (Jersey) Regulations which are a modernised framework dating from 2017 and are not affected by this legislation. There have been considerable changes in practice in other parts of the British Isles as well as internationally since the current legislation was introduced in 1999. The U.K.'s Independent Police Complaints Commission was created by the Police Reform Act 2002 to replace the former Police Complaints Authority. This is something that we will mirror here. Later in 2005, the *Review of Police Disciplinary Arrangements* report led to a simplified and more transparent regulatory approach. Finally, in 2020 the U.K. made further changes to ensure complaints are dealt with quickly, effectively and proportionately. The purpose of this law is therefore to modernise the current framework for dealing with complaints against the police and it is difficult to be consistent with that best practice elsewhere in the British Isles. The intention is to create a consistent approach and provide equity of treatment for all those who can exercise police powers and to establish common standards and provide improved clarity for those making and handling complaints. It is important to maintain reasonably similar systems to those in place in the rest of the British Isles as staff transfer and mutual aid is often given between the various jurisdictions. That being said, it is not possible or desirable to simply copy the complaints and conduct systems in the U.K. due to the differences between the structures in place. In particular, the existence of the Honorary Police with the Attorney General as its titular head and the relationship between the honorary forces and the Connétables requires specific arrangements to be made to reflect the history

and constitutional arrangements. The legislation allocates duties with this in mind to ensure that the responsibility for the forces rests with the appropriate party. The chief officer of police would be required to obtain and preserve relevant evidence concerning a complaint or conduct matter against the States of Jersey Police force in line with the arrangements established by the deputy chief officer until the matter is resolved or until the deputy chief officer launches an investigation. It will also keep a register of the nature, handling and outcome of all complaints. The deputy chief of police will be responsible for maintaining suitable arrangements for the handling and recording of complaints and suitable arrangements for obtaining and preserving evidence in respect of complaints against both the States of Jersey Police and the Honorary Police forces and also for keeping the commission and the Comité des Connétables and the Comité des Chefs de Police informed about those arrangements. They must also keep records of every referral, disciplinary proceedings and potential criminal offences by police officers. The deputy chief officer will also be responsible for determining whether or not it is necessary to investigate specific incidents of deaths or serious injuries. This power of discretion is granted to the Deputy Chief Officer as the scope of what is treated as a D.S.I. (Death or Serious Incident) is very wide and includes any deaths or serious injury however caused, whether or not there is any realistic possibility that the harm resulted from interaction with the police. Regardless of whether an investigation is launched, the deputy chief officer must notify the commission without delay if necessary with an explanation of why an investigation is not warranted. They will also be responsible for keeping the complainant, police officer or other interested parties informed about the progress of the investigations. Each Connétable will be responsible for maintaining such statutory arrangements to handle complaints against the Honorary Police force of their Parish and they will also keep a register of the nature, handling and outcome of all complaints. They will be required to obtain and preserve relevant evidence concerning a complaint in line with the arrangements established by the deputy chief officer until the matter is resolved or until the deputy chief officer launches an investigation. They will need to keep the commission and Comité des Connétables informed about those arrangements to ensure that they continue to be suitable. The Attorney General will be required to maintain suitable arrangements for the handling of complaints against a member of the Honorary Police during any investigation into this complaint and keep the commission and Comité des Connétables informed about those arrangements. They must also keep records of every referral, disciplinary proceedings and potential criminal offences by the Honorary Police officers. All of these arrangements will be overseen by the Jersey Police Complaints Commission which will replace the existing Jersey Police Complaints Authority while retaining the same membership. The commission will make recommendations concerning the arrangements in practice and complaint handling and will report to the Minister on the overall operation of the overall complaints system. It will submit an annual report on the system to the Minister for presentation to the States. The commission will have an enhanced role in the event of a person suffering death or serious injury when it must immediately be notified by the deputy chief officer and will be engaged throughout the ensuing process. Ultimately, the draft law sets out duties and roles to provide a framework within which the complaints and conduct system is going to be developed in greater detail by subordinate regulation. Those regulations are attached in draft for Members' consideration. I would like to go a little bit deeper into this. This is an enabling law and there is very little depth to it. Everything that it will allow will be contained in the regulations. There is an example of what those regulations could look like provided in the proposition, all 100 pages of it. These are an indication of where they could be but they have not of course been subject to ... well they have been subjected to scrutiny but not in depth and they have not been subject to consultation. We are also not discussing them today. None of them will be enabled or enacted today or will be part of the law and this will be for the next Assembly to decide upon probably in 9 to 12 months' time. With this I propose the law.

The Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles?

3.1.1 Deputy R.J. Ward:

Just very briefly from the panel. I would refer Members to the comments paper from the panel which I hope they have read. There were 2 points: one point was this is very close to the election and we were concerned about that, but we do really understand it was delayed classically due to COVID. But I just want to refer to the conclusion in the report and I just want a few words from that: “This draft law is the first step in the legislative process and lays the foundations for an updated system to address how complaints and conduct matters are handled within the States of Jersey and Honorary Police. The panel is satisfied that the framework is sufficient; however, it is in the regulations that the detail as to how each process will operate will be set out. As such, the panel would recommend that, should the draft law be adopted, a full review is undertaken of the draft regulations as and when they are brought forward in the next States Assembly. The panel will ensure this is detailed as an area for consideration of its successor panel in its legacy report.” I think that is a really key point to say, is the regulations in this case, the devil is in the detail of these regulations and they do need to be before Scrutiny in the next Assembly. I would urge whoever is chairing that panel to take on those regulations at the time but at the moment we are satisfied that this is sufficient framework for future movement.

3.1.2 Deputy K.F. Morel:

Really it is a question to the Minister with regard to death or serious injury. I appreciate the regulations are not here, this is not an enabling law, but it does go into a little depth in this area. It appears that there is a choice to be made as to whether investigation or not is undertaken should a death or serious injury occur in police custody. I find that interesting that there was a choice. In my mind, that is something that if there is a death or serious injury in custody or while arrested by a police officer there should be an automatic investigation regardless, whereas at the moment I understand that the proposed law suggests that a recommendation is made by the police before the J.P.C.C. (Jersey Police Complaints Commission) would decide whether or not to undertake investigations. So, I am a bit perturbed by that because for me if there is a death in custody then investigation should take place.

3.1.3 Connétable A.S. Crowcroft of St. Helier:

I hope it will be acceptable for me to use this proposition as a chance to recycle a speech I made during the bridging Island Plan debate. Members will recall that there was a discussion about the future of the St. Helier Honorary Police headquarters in Nelson Street and I used that opportunity, which I suspect was rather lost because it was scarcely relevant, but I think it is more relevant today because we are talking about complaints against the police which of course includes the Honorary Police. I simply want to say that of course it is absolutely right that this legislation is being updated and that the very highest standards of behaviour will be expected of all police officers in Jersey.

[11:30]

But I think all Members would agree with me that this is a rare occasion and that 99 per cent of the time our police officers carry out their onerous duties with a combination of professionalism and dedication. I was reminded this morning, Sir, when you said those very kind words about the late Senator Quérée that he began his career as a States Member by being a Constable’s officer in St. Ouen. So many Islanders choose to devote some of their time to honorary service and some of them to Honorary Police service, and that is a debt that we are enormously grateful for and lucky to have. Perhaps we need to remind ourselves sometimes that we are the only place where such a tradition exists. It does not even happen in our sister Island. It is quite a remarkable feature of policing in Jersey that we have the Honorary Police and what is remarkable, during COVID in particular to me as Constable of St. Helier, was that 4 centeniers in St. Helier did all of the charging for the entire Island throughout the pandemic by arrangement with the other Constables. It was an enormous amount of work and that is why I just wanted to repeat my thanks to those centeniers in particular for

the work they did during the pandemic, and to all Honorary Police officers [**Approbation**] and to States of Jersey Police officers for the work they do and for their professionalism which means that complaints such as we are discussing today are very rarely made.

3.1.4 The Connétable of St. Brelade:

While endorsing the comments of the previous speaker I would like to just shoehorn in the remark that I made in a presentation to States Members last week that, while I support the principles of the complaints process, let us not make it too onerous, let us make it swift and to the point. There will be always a number of vexatious complaints which have to be dealt with but the effect on the officers complained about can be quite profound. I think we must take notice of that and ensure that anything is dealt with in an efficient, swift manner and that the effect on those particular officers is also accommodated in the law in the best way that we can.

3.1.5 The Connétable of St. Lawrence:

Very briefly just to say of course this is about good governance, it is about transparency and accountability for the States of Jersey Police and the Honorary Police. We cannot be too transparent, I believe, in our dealings with the public but particularly in the way in which complaints are handled. The public need to be reassured that their voice will be heard and will be clearly taken into account and not overlooked, not forgotten about. They need to know that both the States of Jersey Police and the Honorary Police are accountable for their actions. I would just like to endorse the words of the Constable of St. Brelade regarding the length of time that it can take for complaints to be dealt with and the clear detrimental impact that that length of time has on the officer concerned, particularly if it turns out at the end of the investigation that there is no come-back on the officer that they may not have been at fault. But I have seen it and I know the severe impact it has on their well-being. The difficulty from an Honorary Police perspective of course is that the complaint is investigated by States of Jersey Police and there is no way that the Constable who has responsibility for the well-being of their officers has any impact on the speed at which the investigation takes place. I have in the past lobbied former Attorney Generals when investigations have, to my mind, been taking too long but they too have been tied and not been able to approach the States Police, I would say, to ask them to maybe work more quickly on the complaint. So, I am not sure how that can be mitigated, I really do not know, and perhaps it is something that we need to look at when we consider the regulations which are to follow. But also to endorse the words of the Constable of St. Helier and to thank and give praise to those members of the public who do sign up to be Honorary Police officers. It is important that one of the most important things that I do when I interview prospective officers is to draw their attention to the fact that they are indeed accountable under the Police (Complaints and Conduct) Law, that they must go away and read it before they decide to sign up for it so that when they do get sworn in they are completely aware of their responsibility and accountability to the public.

The Bailiff:

Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles then I close the debate and call upon the Minister to respond.

3.1.6 Deputy G.C. Guida:

First to the Scrutiny Panel, I would like to thank them for having taken on this project knowing that it was very close to the election. They are absolutely right that the regulations are going to be a massive piece of work and that this needs to be scrutinised in depth. Of course, yes, the devil is in the details and those details will have to be looked at by the next Assembly when it happens. We thought that it would be useful to that next Assembly to propose the law now so that they will have a framework and would be able to work straight into the regulations next. To Deputy Morel, I think there is a small misunderstanding. A death or serious injury incident is any death or serious injury

that happened with the slimmest relation to a police action. For example, if somebody has a heart attack 2 weeks after having been interviewed by the police, that is a death or serious injury incident and needs to be investigated. There might be the smallest chance that their death was related to the interview in the smallest way but you want to have a look at that. This is so wide, it catches so wide a net that there must be an agreement between the D.C.O. (deputy chief officer) and the Police Complaints Commission on whether it warrants an investigation or not otherwise hundreds of cases would have to be fully investigated. Any death or serious injury in police custody is investigated as a matter of fact but that is a completely different matter from what is a general death or serious injury. I would like to join the Constable of St. Helier in thanking our Honorary Police force. They have been essential to the workings of Jersey and I hope they last for many, many years to come. I hope that our successors will look at these regulations in a balanced way to ensure that the principles, the code of conduct are followed but that also both the States of Jersey Police officers and the Honorary Police officers are treated well. The Constable of St. Brelade and the Constable of St. Lawrence mentioned that fact that the officers should be treated correctly. One of the things that we need to ensure the regulations include are what the British rules tried to do as well, which is that complaints must be quickly, effectively and proportionately dealt with and the “quickly” is important. There was also the notion that there must be a cut-off point, that is important, and I hope that will be somewhere in the regulations. There must be a cut-off point where all avenues have been used and there is no further route for complaint after it has been fully investigated. I think I have answered all the questions and I maintain the proposition.

The Bailiff:

Very well, I ask Members to return to their seats and I ask the Greffier to open the voting. The vote is on the principles for P.22. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The principles have been adopted.

POUR: 39	CONTRE: 0	ABSTAIN: 0
Senator I.J. Gorst		
Senator J.A.N. Le Fondré		
Senator T.A. Vallois		
Senator K.L. Moore		
Senator S.Y. Mézec		
Connétable of St. Helier		
Connétable of St. Lawrence		
Connétable of St. Brelade		
Connétable of Grouville		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Connétable of St. John		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		

Deputy S.J. Pinel (C)				
Deputy of St. Ouen				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Deputy Ward, does your panel wish to call the matter in?

Deputy R.J. Ward (Chair, Children, Education and Home Affairs Scrutiny Panel):

No, thank you.

The Bailiff:

How do you wish to deal with the Articles in Second Reading, Minister?

Deputy G.C. Guida:

I would like to take them *en bloc* but talk about them shortly.

The Bailiff:

Certainly.

3.2 Deputy G.C. Guida:

There are just a few Articles that I would like to mention very quickly. Article 2 defines a complaint, and that is of course important, as a written statement expressing dissatisfaction about an act. It is quite important to note that one of the big differences in the new law is who can bring a complaint. It was a little bit narrower in the previous law and this time it includes anybody who may be adversely affected but also witnesses to a police action, so that is quite an important difference. I would also mention Article 7 which has an associated schedule 1 which sets the constitution of the new Jersey Police Complaints Commission. We decided to call it a commission to match what has been done in the U.K. but also because subsequently to the creation of the J.P.C.A. (Jersey Police Complaints Authority) we created the Jersey Police Authority and people have mistaken the 2 bodies. Article 9 is also important because it talks about reporting powers of the commission. Those reporting powers are the strong arm of the commission and they are quite important to look at. Another important aspect of those reporting powers is that they have to be conditional because a lot of the information that the J.P.C.C. deals with is extremely private in its nature so they have to decide whether reporting that information is in the public interest or whether it is in the interest of the victims and that will

have to be detailed in the regulations. Part 4 and schedule 2 are quite important as well because they introduce the notion of a code of conduct and this is now a compulsory code of conduct rather than best practice which is also an important change in this law. Finally, schedule 3 introduced by Article 23 talks about the Police (Complaints and Conduct) (Consequential and Miscellaneous Amendments) (Jersey) Regulations which will allow the regulations to modify other laws that may be impacted by this law. With this I would like to propose the Articles *en bloc*.

The Bailiff:

Are the Articles seconded for Second Reading? **[Seconded]** Does any Member wish to speak in Second Reading?

3.2.1 Deputy K.F. Morel:

Again, another question for the Minister if he does not mind. Just in Article 2(4) it talks about people are able to make a complaint if they are a member of the public who has been “adversely affected by the act”, meaning an act by the police.

[11:45]

Would he be able to confirm would that includes members of a family, for instance, were there a death in police custody? That person obviously cannot make a complaint but the family may consider that they themselves have been adversely affected. Really, I am just trying to understand does the sense of being adversely affected extend to members of a family?

The Bailiff:

Does any other Member wish to speak in Second Reading? If no other Member wishes to speak in Second Reading then I close the debate and call upon the Minister to respond.

3.2.2 Deputy G.C. Guida:

Yes, I can assure the Deputy, and basically that is a very wide net, so “adversely affected” means anybody that could have been adversely affected or witnessed somebody else being adversely affected. So it is a very wide-ranging net. I maintain the Articles.

The Bailiff:

I ask Members to return to their seats. I ask the Greffier to open the voting. The vote is on the Articles in Second Reading. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The Articles have been adopted in Second Reading.

POUR: 41		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				

Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Bailiff:

Do you propose the matter in Third Reading, Minister?

3.3 Deputy G.C. Guida:

Yes, and I would like to thank all those involved in writing this extremely extensive law and its draft regulations.

The Bailiff:

Is the law seconded for Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading then I close the debate and I ask the Greffier to open the voting. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The Articles have been adopted in Third Reading.

POUR: 41		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				

Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

4. Draft Criminal Procedure (Consequential Amendments - Access to Justice) (Jersey) Regulations 202- (P.4/2022)

The Bailiff:

We now move on to the Draft Criminal Procedure (Consequential Amendments - Access to Justice) (Jersey) Regulations, P.4, lodged by the Chief Minister and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Criminal Procedure (Consequential Amendments - Access to Justice) (Jersey) Regulations 202-. The States make these regulations under Article 115 of the Criminal Procedure (Jersey) Law 2018.

4.1 Senator J.A.N. Le Fondré (The Chief Minister):

In July 2021 the States passed an Appointed Day Act to bring the Access to Justice Law into force. Articles 1, 6, 7, 8 and 9 of the law are now in force; all remaining Articles except Article 11 are due to come into force on 1st April, the date on which the Legal Aid Guidelines published by myself in December in R.191/2021 will take effect. Now these hopefully very straightforward regulations are needed to update or tidy up Article 21 of the law before it comes into effect in April. Article 21 currently makes reference to the Magistrate's Court (Miscellaneous Provisions) (Jersey) Law 1949 and that law has been repealed by the Criminal Procedure Law 2018 and as such the draft regulations ensure that the outdated reference to the 1949 law is now removed and a correct corresponding reference to the new Criminal Procedure Law is inserted. The effect and purposes of Article 21 which is to enable costs orders and payments to be made as provided by the regulations made under the Costs in Criminal Cases Law is retained in its entirety. There is accordingly no change to policy. The draft regulations also propose Article 22 that the Access to Justice Law be deleted. That makes reference to Article 106 of the Police Procedures and Criminal Evidence Law which has been deleted by the Criminal Procedure Law and is therefore now redundant. With these amending regulations all references in the Access to Justice Law will be up to date and current in time for the law to come more fully into force on 1st April. I move the principles.

The Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles?

4.1.1 Deputy S.M. Ahier of St. Helier:

As Members will know there has been a lengthy delay to the implementation of the Legal Aid Guidelines which are due to come into effect on 1st April this year. Because of this some references of other legislation in the law are now outdated. This consequential amendment ensures that the correct provisions in the Criminal Procedure Law are referenced. The Legal Aid Review Panel understands the necessity for this amendment and supports its progression.

The Bailiff:

Does any other Member wish to speak on the principles? If no Member wishes to speak on the principles then I close the debate and call upon the Chief Minister to respond.

4.1.2 Senator J.A.N. Le Fondré:

I thank the Deputy for his comments and for all his support and work with his panel during this whole process. Thank you. I maintain the principles. I presume it is appropriate for a standing vote or ...

The Bailiff:

You do not call for the *appel*? Given the fact that there has not been a debate then I am prepared to take it on a standing vote. I will take the matter on a standing vote. All those in favour of adopting the principles, kindly show. Those against? Clearly adopted within the Chamber on a standing vote. Your Scrutiny Panel does not wish to call the matter in?

Deputy S.M. Ahier (Chair, Legal Aid Review Panel):

No, we do not.

The Bailiff:

How do you wish to deal with the matter in Second Reading then, Minister?

Senator J.A.N. Le Fondré:

Yes, can I propose the 2 Regulations *en bloc*?

The Bailiff:

Are the regulations seconded in Second Reading? **[Seconded]** Does any Member wish to speak in Second Reading? If no Member wishes to speak in Second Reading then I close the debate and I will take this on a standing vote as well. Members kindly show if they approve. Any against? Very well, it is adopted in Second Reading. Do you propose the regulations in Third Reading, Minister?

Senator J.A.N. Le Fondré:

Yes, thank you.

The Bailiff:

Are they seconded for Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading then I close the debate. Do you call for the appel at this point ...

Senator J.A.N. Le Fondré:

I think the appel would be appropriate, thank you.

The Bailiff:

Therefore, I invite Members to return to their seats and I ask the Greffier to open the voting. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The regulations have been adopted in Third Reading.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				

Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

5. Draft Control of Housing and Work (Amendment) (Jersey) Law 202- (P.13/2022)

The Bailiff:

The next item on the Order Paper is the Draft Control of Housing and Work (Amendment) (Jersey) Law, P.13, lodged by the Chief Minister and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Control of Housing and Work (Amendment) (Jersey) Law 202-. A law to amend the Control of Housing and Work (Jersey) Law 2012, and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

Senator J.A.N. Le Fondré (The Chief Minister):

The Deputy of St. Peter is acting as rapporteur on this.

5.1 Deputy R.E. Huelin of St. Peter (Assistant Chief Minister - rapporteur):

I have had the honour to be responsible for population issues for the last 18 months and I am very grateful to the Assembly for the support I have previously received when bringing forward the first Common Population Policy and the policy principles that will support more responsive migration controls. Today I hope that Members will support my proposals for more changes that will pave the way for those improved controls. These proposed amendments to the Control of Housing and Work (Jersey) Law 2012 respond to the need to create more responsive controls on migration in line with

the findings of the Policy Development Board in R.20 and the States decision to endorse P.137 in March 2021. This included to agree that action should be taken to provide more responsive controls on the number of migrants who acquire the rights to settle permanently in Jersey and to remove the automatic graduation from one Control of Housing and Work Law permission to another. These amendments maintain the current structure of the law and provide a simple high-level framework within which more detailed secondary legislation can be developed. The use of regulations and orders will give significant levels of flexibility to allow short, medium and long-term plans within the current Population Policy, P.116, and future common population policies to be successfully implemented in order to manage the population of our Island. If passed, these amendments will be followed by regulations and orders outlining the more detailed areas of the law. These will include clear decision-making processes, the different timeline-limited statuses, the access each status will have in relation to work and accommodation, the exemptions that will be in place for individuals and businesses and how a person might move from one status to another, the fees and civil penalties applicable under the law and the transitional arrangements that will be in place for those already holding a Control of Housing Work Law status. These draft amendments will be enacted through an Appointed Day Act after the secondary legislation has been agreed by the Assembly. The secondary legislation will replicate existing commitments with regard to exemptions to allow regulated activity as defined within the law to continue as it does currently for the various exemptions that apply to persons to work in Jersey for short periods of time to continue and to ensure Jersey continues to meet its obligations within the law towards World Trade Organization and free trade agreements. Regulations will also outline transitional arrangements that ensure that people already living and working in Jersey prior to the amendments coming into force will maintain their right and ability to automatically graduate to a different status, as they do today. A central feature of these amendments is the ability for Control of Housing and Work Law statuses and permissions to be time limited. This sounds like a small change but it is an essential part of the amendments and will enable the Assembly to remove automatic graduation as a matter of course. As the Assembly has previously agreed, this is a vital element for the management of the Island's permanent population. The Government understands the difficulties being faced by certain industry sectors at this time. The framework within these amendments will enable targeted assistance to be offered to businesses where needed and in line with the prevailing Common Population Policy. In particular, I would like to acknowledge the open letter last week from the chief executive of the Jersey Hospitality Association, who I have agreed and look forward to meeting next week. The amendments established a new decision-making and review structure, initial decisions will be made by determining officers within Ministerial guidelines, which allows the Chief Minister to act in an independent role when considering reviews of any decisions. The changes to the primary legislation also establish 2 new bodies, which were endorsed in P.137, the Housing and Work Control Panel, a political panel to support decision-making in respect of individual applications by both determining officers and on review by the Chief Minister and the Population Advisory Council, an expert council to advise the Chief Minister on overall population policy.

[12:00]

R.20 and P.137 highlighted the biggest impact upon these Islands, permanent population with automatic graduation and these amendments concentrate on addressing that issue. They do not make any significant changes to the housing controls within the law and properties will continue to be categorised as qualified and registered. There is an important distinction to be made between international immigration and migration from within the Common Travel Area, that being U.K., Ireland and the Crown Dependencies. The relationship with the Common Travel Area is a vital one for Jersey and these amendments do not prevent travel or restrict the movement of anybody within the C.T.A. (Common Travel Area). A company workstreams on an I.T. (information technology) portal will bring together the current separate application processes for Control of Housing and Work Law and immigration permissions, which will simplify the process for businesses and their staff. The

Migration and Population Review Panel has been fully engaged in the development of these amendments and I wish to thank them and I would like to thank them for giving their feedback and appreciate their broad acceptance of the principles of the amendment and agreement that this proposition lays the foundations for a more transparent and flexible system of migration controls. Resources have been stretched during the COVID pandemic and I would like to thank all of those who have contributed and worked extremely hard to ensure these amendments provide sound legislation that will be able to be adapted to the future needs of the Island. The primary law is the first stage and this carries out a few very important elements that have taken considerable time and effort to get right within the law. For example, removing the prescriptive rules that currently exist within the law, introducing the ability for permissions within the law to stop and start and the new decision-making process. It, ultimately, sets the framework on which to build sufficient flexibility within the secondary legislation and the policy guidelines that will follow to implement future population policies. The secondary legislation and policy guidance will be a significant piece of work. In summary, this might not be the most exciting piece of legislation but it does lay the very important foundations that are required on which to build the more detailed secondary legislation. Nothing agreed today will be brought into play until the Assembly has agreed to vote for the secondary legislation and the Appointed Day Act. All Members will have received a marked-up version of the amendments; Scrutiny have received a detailed briefing from officers and officers have provided opportunities to explain and discuss the amendments. No further amendments have been received from Members and I, therefore, hope the Assembly will be supportive of these amendments to the Control of Housing and Work Law in their current form. The Assembly has previously agreed the need for improved migration controls in the population policy. These amendments to the Control of Housing and Work Law are simply giving effect to the will of the Assembly, as already expressed in P.137. Therefore, I encourage all Members to approve these amendments so that we can move forward with providing a framework for the flexible migration controls that are necessary to successfully manage our population. I propose the law in the First Reading.

The Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles?

5.1.1 Senator L.J. Farnham:

I will be brief because, of course, I am supportive of this but we are in the grip of changing circumstances globally which has led to huge, huge challenges for our industries right across the economy in obtaining staff, not just in the economy though but in the public sector as well, in health and in other areas. These figures were that the 9-month and the 4-year and the 10-year were timescales but that were really agreed prior to us understanding the impact and the implications of what we are currently going through. As a result, I think it is putting a huge amount of extra pressure on businesses, especially tourism and agriculture in relation to the recruitment and retention of staff. Of course, I am supportive of this but I think we have to fully be aware. I know the Deputy of St. Peter is aware of this, that it is something we are going to have to probably revisit sooner rather than later. I just wanted to make that clear. I think we have to set off in this direction now but we might have to review it sooner rather than later.

5.1.2 Senator S.W. Pallett:

As chair of the Migration and Population Review Panel, I have got to make some comment. We have provided a comments paper to the Assembly, which I hope this has been helpful to Members but I thought it might be useful just to make a few comments. First of all, I want to thank the Assistant Chief Minister for the briefings and updates he has provided the panel and his kind words. I hope the Scrutiny Panel has been of a benefit to him and his officers when they have been progressing this particular amendment. I will start off with a disappointing part, I suppose it is disappointing that at the end of another political term we have reached a point where we have not got the actual controls

in place. But there has been progress and I think the amendment provides a framework, but any further action is now dependent on the priorities of the next Government. The conclusion is that in keeping with that presented by the panel in its report and the Common Population Policy, which very much passed the baton to the next Government, subject to any necessary data being provided through, for example, the long-awaited census, if the amendment is agreed by the Assembly it still means the current controls stay in place, as the Assistant Chief Minister has said, until secondary legislation is agreed and the Appointed Day Act is approved. I think Members will appreciate that the work of Scrutiny is necessarily dictated by the policy and legislation that was presented to it. In this respect the work on the substance of the Migration Control and Population has yet to come. In regards to that work we will be setting out our review panel's position in our legacy report to the Scrutiny Liaison Committee so that any future work can be clearly set out and, hopefully, the panel will be reconstituted in the new Assembly. It is this panel's hopes and recommendation that the next Council of Ministers can act quickly. I take on board Senator Farnham's comments around the current situation in the work market but I think it does need to act quickly and decisively to bring secondary legislation forward for debate and that this work is accompanied by meaningful engagement with the States Assembly, businesses and wider public. As Senator Farnham has said, I think businesses are concerned that any new controls need to be sensitively implemented but what future changes will be are a decision for the next Government. As has been set out, I think, by the Assistant Chief Minister, P.13 does lay the foundation for a more transparent and flexible system on migration control. It proposes changes to primary legislation, governing the rights of individuals to housing and work in Jersey. It takes the important first step in setting foundations for the removal of the automatic graduation from one employment status to another. But unlike the current Control of Housing and Work Law it has not included the status of individuals and details of work permits within it; that will be within the secondary legislation and guidelines. They need to be drafted and will introduce time permits and the associated guidelines. It has been indicated that these will not be brought forward until late 2022 but, again, that is subject to the new Government or new Council of Ministers agreeing to do that. From a panel's point of view, I think we understand the rationale for separating the permit structure from the primary legislation and introducing them as regulations. They can be adjusted without the requirement to alter the underlying legislation. The intention is to provide future Governments greater flexibility in their reaction to changing circumstances that we have come very accustomed to over the last couple of years. The panel is of the view that whether as one piece of legislation or as primary and secondary legislation, we thought the expectation of the Assembly was that a fully-developed new migration control system would be debated prior to the end of this Government's term in office. This has not been achieved but I think the panel, and I think we all need to be conscious that the pandemic has delayed the proposals but, nevertheless, it comes with a degree of disappointment. The panel hopes that the momentum on I.T. projects associated with the Migration Control Policy will not be lost and that progress will be monitored by future Scrutiny Panels. The data required is vital and implementing new systems in close collaboration with local business is critical to introducing any new changes to migration controls. The panel broadly accepts the principles of the amendment. It has not undertaken a full review, as we felt - and I hope Members will agree - it is going to be difficult to do so without the regulations and guidelines. Just a couple of comments I want to make around some of the decision-making processes. Those decision-making processes will be more clearly delineated in the view of the panel and will be based on the use of clear guidelines issued by the Chief Minister and then published. The new process separates the Chief Minister from the original decision, so that he can make a clear ruling on appeals. The guidelines and the application process should be clear for businesses to understand and allow them to plan with a greater level of certainty about the guidance and the policy which will be applied. The intention expressed to the panel is that a clear system will reduce the number of appeals which are brought, as the application criteria and rationale for decisions should be clearer. The amendment does implement or does bring forward a Housing and Work Control Panel. Our panel, the review panel, considered an amendment to P.13/2022 to ensure that non-Executive States Members were

specifically included in the membership of the control panel and a higher limit on the number of Members be included in the amendment. The panel chose to accept the evidence though, that as currently drafted the law provides the necessary flexibility. The panel would urge though a future Chief Minister to strongly consider the longer-term advantages afforded by ensuring that the control panel is representative of Executive and non-Executive Members' views to create the greatest level of objectivity in decision-making. The future Chief Minister should also ensure that the number of Members is limited to ensure a consistent approach to decision-making. The panel would also recommend that the terms of reference are presented to the States Assembly and to the relevant Scrutiny Panel once drafted. Just a couple of final comments around the Population Advisory Council, as with the control panel, the Population Review Panel recommends that further details of the council's establishment and its terms of reference should be presented to the States Assembly and Scrutiny. I think the Assistant Chief Minister would agree that this particular amendment very much concentrated on controls to work and less so on controls to housing. I think he believes it needs to be brought forward, I think, at some place in the future. In that regard I think the panel looks forward at some point to seeing detailed work on the secondary legislation in relation to housing and hopes that future detailed scrutiny will be focused on those which determine how and what property can be accessed by those who choose to live and work in Jersey. Finally, I think the panel heard that work is ongoing to improve registers of known addresses and housing, which would improve the knowledge base available over the next year, and I think that is a really important element of the work that needs to be carried out. To finish, as I have stated, this amendment does not include the statuses or the work permit system; that will come at some later date. This really is the foundations or the backbone of the new Housing and Work Law and how it will be administered. The panel is in support of this. As I have said, I think many of us would have liked to have seen the controls brought to the Assembly before the end of the term.

[12:15]

But unfortunately time, I think, has caught up with the Assistant Chief Minister and Chief Minister and Government generally. It is for the next Government to decide whether they bring those controls forward. But I will finish by saying and echoing, I think, Senator Farnham's view that any new controls do need to be very carefully considered and fully consulted on with industry business sectors before being implemented.

5.1.3 Senator K.L. Moore:

As Senator Farnham and Senator Pallett have both mentioned, this is a time of great difficulty for employers. I simply cannot support this proposal, as at that difficult time it seeks to reduce the ability for many employers to recruit. That is further exacerbated by the proposer's admittance that he has yet to meet with some of the critical industry representatives and I am afraid it is simply not good enough that he is committing to meeting the Hospitality Association next week in relation to their letter, which we received last week. But that consultation should have already happened; it is simply not good enough. As myself, somebody who came to the Island on a licence to work, I cannot support the removal of the automatic graduation without greater consideration and also greater confidence in the people who have brought these changes to the Assembly. It has been noted, and I think many have viewed with some concern the level of knowledge that has been imparted in Scrutiny hearings; it has been considerably lacking. I think it has to be said publicly that it has not shown the Government to be in a good light at all and, therefore, I simply cannot support it.

5.1.4 Deputy G.C. Guida:

Yes, sorry to come in so late. Just to remind Members that this legislation has to be compatible with our immigration law, our immigration rules and it does have to be compatible with the U.K. ones, so there are limitations. You could expand this legislation in other ways but it would have to remain compatible with our immigration rules and those, of course, have changed tremendously since Brexit.

The Bailiff:

Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles, then I close the debate and call upon the Deputy of St. Peter to respond.

5.1.5 The Deputy of St. Peter:

Thank you, all, for your contributions. In chronological order: Senator Farnham, I am acutely aware of what has happened over the last 2 years and the pace of change that we have witnessed is unbelievable. In fact I am quite outspoken in saying we, as an Assembly, proceed at snail's pace where the rest of the world is going on at the speed of the Red Arrows; they are topical today. That is why we have to have the fundamental principles of this proposition to enable in the secondary legislation the flexibility to be nimble and change very, very quickly to meet the demands of the businesses and healthcare and education and everybody who so desperately need to bring the expertise into this Island that we need for our fundamental survival and future and to thrive. But I thank you for that comment and it is absolutely acknowledged ...

The Bailiff:

Could you address your remarks through the Chair, please, Deputy?

The Deputy of St. Peter:

Sorry, Sir. I do apologise, I was ...

The Bailiff:

It would be I thank the Senator for those comments.

The Deputy of St. Peter:

I thank the Senator, I apologise, sorry. I would like to thank the Scrutiny Panel. We have had, I think, an excellent co-operative relationship all the way through this particular process and I am very pleased with the comments and the support we have had from the chair. I do not think I need to go through everything because I am just going to agree with virtually everything that the chair has said. Clearly, we are disappointed that we have not delivered the secondary legislation in this particular term and I think we can all say, all of us, we are disappointed with many things that have not been delivered as the business as usual, shall we say, during the last 4 years. Obviously, we have had a hatrnick of circumstances that got in the way of that and not many Assemblies have one but we have had 3. But I can only match that and I can only extend to say that I hope whoever takes over this role and Scrutiny's role in the new Government addresses this with absolute urgency and maintains the momentum that we have put on this really important matter. Senator Moore, we had full consultation with Jersey hospitality. There happened to be a change of leader after the consultation, even though the conversations were always open, before the lodging of this proposition. I confess it was remiss of us not to invite the new chair in the last month or 2, however, it has been addressed and we will listen to everything she says. This is a fluid, dynamic world as we move forward to the secondary legislation. Deputy Guida, immigration and migration are much misunderstood but they have to operate in sync. Because of Brexit we went from a catchment area of 600 million people to 60 million overnight that needed to come into this Island through the immigration, through the border control and plus with our relationship with the C.T.A. That has fundamentally changed how we recruit and how we attract people to this Island, if necessary. We have one arm behind our back and those rules are set in the U.K. and not ours, and we must adhere to them should we wish to continue to be part of the C.T.A. and the great benefits it brings. I think I have addressed everything, so if I may move the proposition and ask for the appel.

The Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on the principles of P.13 and I ask the Greffier to open the voting and Members to vote. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The principles have been adopted.

POUR: 37		CONTRE: 5		ABSTAIN: 0
Senator I.J. Gorst		Senator K.L. Moore		
Senator L.J. Farnham		Connétable of St. Martin		
Senator J.A.N. Le Fondré		Deputy M.R. Higgins (H)		
Senator T.A. Vallois		Deputy of St. John		
Senator S.W. Pallett		Deputy J.H. Perchard (S)		
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Deputy Greffier of the States:

Those voting contre in the Chamber: Senator Moore and the Connétable of St. Martin. In the chat: the Deputy of St. John, Deputy Perchard and Deputy Higgins voted contre.

The Bailiff:

I am assuming from the tenor of your speech in the Assembly the panel does not want to call this in. Very well. How do you wish to deal with the matter in Second Reading, the Deputy of St. Peter?

5.2 The Deputy of St. Peter:

I think as the amendments are interlinked I propose the Articles *en bloc*.

The Bailiff:

Yes. Did you wish to speak to them or to take questions?

The Deputy of St. Peter:

I think I will speak to them and if anybody starts yawning I will stop. Oops, I asked for that one.

The Bailiff:

That is something of a hostage to fortune, as you may not start in those circumstances but ...

The Deputy of St. Peter:

I am feeling a little better today, yesterday the legacy of COVID attacked me but I feel a little bit more agreeable today. The draft law is to make amendments to the Control of Housing and Work Law, which will make provision for the control and regulation of work in Jersey with connected purposes. Article 3 covers the interpretation provisions, the amendments in this part provide a number of new definitions that are used throughout the law, make some minor amendments to existing definitions and remove terms that are no longer required. Articles 4 to 6 cover the residential and employment status of individuals and the central theme to this is a move away from the Control of Housing and Work Law status being linked solely to the application for possession of a registration card. Instead, the amended law requires that for the purposes of residents that work in Jersey every adult must always have an appropriate status, unless they are exempt from the requirement to do so. This part provides the framework for more responsive migration controls that can adapt in a timely manner and for the time-limited statuses under the law which do not automatically lead to permanent residential status. The States are given regulation-making powers to specify all provisions regarding the residential employment statuses that will exist under the law. A power is conferred or duty imposed upon the Chief Minister to make by order any provision that may be made by regulations regarding residential and employment statuses. The amendments outline the role of the determining officer under the law, including the requirement to request guidance from the Housing and Work Control Panel in certain circumstances, a clear review process that the panel has outlined when an applicant is dissatisfied with a determining officer's decision. The removal on necessity to a physical registration card to demonstrate a status will allow the provision of a digital status and the utilisation of developing technology in the future. Giving the ability to end the automatic graduation from one status to another is an important fundamental part of the amended law and regulations will be introduced to impose that time limit on its status and set out circumstances in which a status may be revoked. Articles 7 and 8 cover how an individual status is determined. The requirement to apply for a registration card is removed and replaced with a requirement for a person to apply for appropriate status. The provisions apply to adults' responsibility to informing the Chief Minister on the details of a newly-arrived child not born in Jersey are also updated. Articles 9 and 10 cover the information to be provided to the Chief Minister. These amendments outline the information that a person who is ordinarily resident must apply to the Chief Minister who that information can be shared

with for compliance purposes and details of the information that can be shared. They clarify where a person is not required to supply information under the amended law and introduces a reasonable excuse for not supplying information in order to stop this being an absolute offence. Information-sharing is expanded to include the government departments, Parish administrations and Revenue Jersey but continues to be for the same purposes of solely facilitating compliance within the law. The European Convention on Human Rights review by the Law Officers' Department contained in this proposition confirms that the sharing of relevant information for the purposes of facilitating compliance within the law are proportionate and legitimate and in accordance with Article 8 of the E.C.H.R. (European Convention on Human Rights). Articles 11 and 12 cover housing categories and the occupation of housing. Minimal changes have been made to the categorisation of dwelling units under occupation but categories qualified in resident housing continue to exist. The ability to occupy qualified accommodation will be set out in regulations to allow flexibility in the future control of housing stock via amendments to rules regarding the occupation of properties. Consequently, the amendments will remove specific references to entitled and licensed statuses in the primary legislation. Articles 13 and 14 refer to land transactions. This section provides a framework to allow flexibility in the future management of housing stock. The specifics of how housing controls will be dealt with are removed from the primary law and we have placed into regulations. Articles 15 to 20 cover controls on businesses and workers. These amendments simplify the language around resident and non-resident businesses; introduce a staffing licence to be clearer on who is able to work for a business under the law, in what capacity and for how long; provides the framework for responsive and adaptable migration controls through exemptions and conditions; provide a framework for decisions on business and staffing licences to be based on transparent guidance that are aligned with the current population policy objectives; outline a clear process and right to review; provide further detail regarding exemptions and conditions that will apply to staffing licences, individuals and businesses; provide a framework of adaptable fees, including a provision for financial penalties, should it not be paid by a set date, and provide the ability to gather better data on the Island's workforce; that is fundamental.

[12:30]

The States are given regulation-making power to specify different types of licences or conditions for different businesses; specified businesses, types of businesses or work that do not require a licence, specify and make all provisions for determining the appropriate status of staffing licences for certain types of business or work and give the Minister the power to or compel the Minister to make by order any provision that could be made by regulations. Regulations which will be brought to the Assembly will provide further details of exemptions and conditions that will apply to staffing licences, individuals and resident businesses. Regulations are provided for the States to make all provisions that are considered necessary in relation to staffing licences. These regulations may confer power or impose a duty on the Chief Minister to make by order any provision that may be made by such regulations. A new Article 38 is introduced, setting out the rights of the applicant to seek a review of a decision made under this part of the law. The review is undertaken by the panel with their recommendations being made to the Chief Minister. Regulations are provided for many in the circumstances in which a review can be made. Articles 27 to 33 cover a range of general provisions under the law. The amendments are: provide a clear and independent review and appeal process; provide a framework for providing clear guidance to relevant parties on any aspect of the law; provide a framework for civil financial penalties for breach under this law; allow a Control of Housing and Work Law status to be revoked where a person has been convicted of acquiring the status by deception under the law; enable the Housing and Work Control Panel to provide appropriate direction and recommendations and an initial review function; establish the Population Advisory Council to provide expert guidance to the Chief Minister on population matters and the functioning of the law; 2 bodies are established to replace the Housing and Work Advisory Group, H.A.W.A.G. The Housing and Work Control Panel will provide that direction to a determining officer where a decision

is required that falls outside existing policy guidelines and provide recommendations to the Chief Minister when an applicant has requested a review of a decision. This panel will comprise of at least 3 elected Members nominated by the Chief Minister, one of whom acts as the chair of the panel and holds a casting vote. I note that the chair of the Scrutiny Panel's comments there for a greater degree of flexibility and working within the Executive and the non-Executive together. The second new body creates the law under the Population Advisory Council. The role of the council is to provide expert advice and guidance to the Chief Minister in respect of population policy and the functioning of the law. The council will both examine matters referred to it by the Chief Minister and will initiate its own reviews on relevant matters. The council's role is limited to general population policy and the overall operations of the law and does not extend to the referral of or advice on individual cases. Article 34 removes references to transitional provisions, which have now expired and Article 35 provides for the amendments to come into force by way of an Appointed Day Act on a future date to be specified by the States. I propose the amendments in Second Reading.

The Bailiff:

Are the Articles seconded in Second Reading? **[Seconded]** Does any Member wish to speak in Second Reading?

5.2.1 Senator S.W. Pallett:

I have got an issue that has bugged me, I suppose, while we were carrying out the review and it may be a question for the Attorney General or Solicitor General if he could answer it. Previously it would be the Minister that would be responsible for determining an application. Under the new law a determining officer would be determining the initial application, which I have no issue with, I think it is a good way forward. But in terms of how the determining officer is put into place, all it says in the Articles and under Article 1 is: "A determining officer means a person who is appointed by the Minister to carry out determinations of applications and related matters." It does not relate to any Article of how that determining officer would be appointed. Other issues within the interpretation do, they all relate to Articles within the law. I just wondered whether the Solicitor General could give us his opinion about whether the determining officer and the role of the determining officer should be included within the Articles in terms of how they are appointed. I may be barking up the wrong tree but it is something that has just ...

The Bailiff:

I am not sure the Solicitor General can advise you that something should be in the law but he can certainly advise you as to what the legal interpretation of the Articles are.

Senator S.W. Pallett:

Okay, thank you, Sir.

Mr. M. Jowitt, H.M. Solicitor General:

It seems to me that Article 3 simply defines the determining officer; it does not say anything other than that person is appointed by the Minister. It does not say anything about how that appointment process is to take place. It may be that that is a matter that could suitably be dealt with by way of the regulations but I do not see anything in the draft primary legislation that mandates how that appointment is to be made by the Minister.

Senator S.W. Pallett:

I suppose my only concern would be that there will be some legal responsibility with the decisions that are taken by the determining officer and how that might work on appeal, for example, in terms of the authorisation of that determining officer.

The Bailiff:

Are you able to assist with that at all?

The Solicitor General:

I do not think I can say any more than what I have said. It may be prudent for the Assembly to consider the extent to which the process of appointment is governed by regulation.

5.2.2 Deputy R.J. Ward:

Yes, sorry, it is just the confusion how this affects housing qualifications for those who are already here. I had a strange situation, without mentioning anyone, with regards to basically unqualified accommodation. I discovered that if the landlord dies that then becomes qualified status accommodation and there is somebody living in it who had to leave or would had to have left but were very close to their quals. There was some reasonableness, I believe, on H.A.W.A.G. in order to give them the allowance to stay in that home; there was a flexibility. Would that flexibility be lost because I cannot see where it is here? It seems to me that there are no arrivals to the Island in that status from January. I am more concerned about those who are here at the moment and not, to some extent, pulling the ladder out from underneath them and just how this fits in with this. Although I have got to say I do not think these Articles do much, to be quite frank. You could vote for, vote against or abstain, I do not think it makes that much difference, to be quite frank, without being rude. I think because the devil is in the detail of a regulation that comes through and a proper approach to population later on. But just to see how it may have an unconsidered effect on those already here waiting for residential qualifications or are so close to it, a few months away, for example, and if there is a change to their housing status. Because these things can happen and they need to be considered.

The Bailiff:

Thank you very much, Deputy. Does any other Member wish to speak in Second Reading? If no other Member wishes to speak in Second Reading, then I close the debate and call upon the Deputy of St. Peter to respond.

5.2.3 The Deputy of St. Peter:

I am going to make the assumption that the answer from the Solicitor General to Senator Pallett was fine. Deputy Ward is right in exactly what he says, if somebody is living in a non-quals property, that is non-quals by right of inheritance, if that person subsequently dies that non-quals status dies with them. Absolutely right, H.A.W.A.G. currently has a degree of latitude if that person is getting close to the 10 years' status, that they, on appeal, will generally be sympathetic to that situation. That is not going to change in the shorter term, nothing changes until the Appointed Day Act and that will not be retrospective. Anybody who is here today, who is working their way through that system, will continue to work their way through that system. It only starts with people arriving in the Island after the Appointed Day Act; I hope that that is clear. Thank you for that. May I propose the proposition in Second Reading?

The Bailiff:

I invite Members to return to their seats and I ask the Greffier to open the voting. The vote is on the Articles in Second Reading. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The Articles have been adopted in Second Reading.

POUR: 38		CONTRE: 4		ABSTAIN: 0
Senator I.J. Gorst		Senator K.L. Moore		
Senator L.J. Farnham		Deputy M.R. Higgins (H)		

Senator J.A.N. Le Fondré		Deputy of St. John		
Senator T.A. Vallois		Deputy J.H. Perchard (S)		
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Do you propose in Third Reading, Deputy?

5.3 The Deputy of St. Peter:

Yes, please, Sir.

The Bailiff:

Are the Articles seconded for Third Reading? [**Seconded**] Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading, then I invite Members to return to their seats and I ask the Greffier to open the voting. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The law has been adopted in Third Reading.

POUR: 37		CONTRE: 4		ABSTAIN: 0
Senator I.J. Gorst		Senator K.L. Moore		
Senator L.J. Farnham		Deputy M.R. Higgins (H)		
Senator J.A.N. Le Fondré		Deputy of St. John		
Senator T.A. Vallois		Deputy J.H. Perchard (S)		
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Ouen				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Deputy of St. Peter:

May I extend a few thanks to the wonderful relationship with Scrutiny, which has been a fantastic experience, probative experience? I would like to thank all the officers, particularly the officers working with me and putting up with me for the last 18 months. But particularly I would like to thank all of those people who contributed to the consultation. A lot of them gave a lot of time and very positive time towards it and it really was a fantastic experience working with them, and I would like to thank them.

6 Rate Appeal Board: Appointment of Members (P.16/2022)

The Bailiff:

Thank you very much indeed. The next item of Public Business is the Rate Appeal Board: Appointment of Members, P.16, lodged by the Minister for Treasury and Resources and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion - in pursuance of Article 44 of the Rates (Jersey) Law 2005 - (a) to reappoint Ms. Christine Vibert as a member of the Rate Appeal Board until 27 March 2025; and (b) to appoint the following as new members of the Rate Appeal Board; 1. Mr. Scott Hollywood, 2. Mr. John Refault, 3. Mr. Barry Le Beuvant and 4. Mr. Ron Treby for a period of 3 years from 28th of March 2022.

6.1 Deputy S.J. Pinel of St. Clement (The Minister for Treasury and Resources):

Today I am seeking Member's approval for the reappointment of one individual to the Rate Appeal Board and the appointment of 4 new members to that board. Members may be aware that the Rate Appeal Board is established under the Rates (Jersey) Law 2005. Its members are required to hear and determine appeals against rateable values in accordance with the law and do so with no remuneration. We are very fortunate and are indebted to Islanders who put themselves forward voluntarily for these honorary positions. The tenure of the existing members of the board ended on 27th March this year. I am grateful that one of the members has put herself forward for reappointment. I would like to thank this member for their continuing service.

[12:45]

I would also like to thank the members standing down from the board for their service, Messrs Marett and Routier. I regret to inform that a further member of the board, Mr. Clive Borrowman, passed away sadly. The member I am proposing for reappointment is Ms. Christine Vibert, a brief biography is included in the report. This individual brings a wealth of experience and diverse expertise to the role and remains keen to serve the Island in a voluntary capacity. I am pleased that she will continue to offer her services going forward. The individuals I am proposing for appointment are Mr. Scott Hollywood, Mr. John Refault, Mr. Barry Le Beuvant and Mr. Ron Treby. Again, brief biographies are included in the report. As you will see from the biographies included with the report, the proposed individuals have a diverse range of experience, both on and off Island. I propose the nominations.

The Bailiff:

Are the nominations seconded? [**Seconded**] Does any Member wish to speak on the proposition?

6.1.1 Senator S.W. Pallett:

Just very, very, very briefly. I would like to echo the thanks of the Minister to those that have served. It is important that people do put their names forward to these roles. I wish those that are taking up the roles good luck with their work. I just noted on the bottom of page 4 in the reissue note that: "This projet has been reissued due to Mr. David Le Heuze being elected as a Jurat." I just wanted to take the opportunity to wish Mr. Le Heuze good fortune and luck in his appointment as a Jurat. Many

of us will have had the good fortune to work with him in the Magistrate's Court and I just thought it was an appropriate time for us to wish him good luck. **[Approbation]**

6.1.2 Deputy K.F. Morel:

It is, again, just a question for the Minister, it was just to ask out of interest how many cases does the Rate Appeal Board kind of decide upon in a given year in general?

6.1.3 The Connétable of St. Lawrence:

I just wanted to briefly give Members a little bit of background about the relationship between the Appeal Board and the Supervisory Committee. I think in my conclusion I will be able to answer the question of Deputy Morel. The Rates (Jersey) Law sets out how Parish rates and the Island-wide rate are assessed and levied. Part 7 of the law establishes the Rate Appeal Board, and of course we are considering appointments of membership today but the role of the board is to determine an appeal against a rate assessment. The independent board was introduced in 1995 with members being appointed by the States on the proposition of the Minister for Treasury and Resources. But prior to that the Supervisory Committee had the duty to determine appeals. The board itself appoints its own chair and vice-chair from among its members. I will not go into more detail on the duty of the board. But the Supervisory Committee, so that Members are aware, consists of the 12 Connétables; that is under Article 40 of the law. The duties of the Supervisory Committee - and we meet monthly - include to encourage and promote uniformity in rateable values throughout the Island and to assist assessment committees in the performance of their duties under this law. The committee must also provide any information in its possession to the Rate Appeal Board upon being requested to do so. The Supervisory Committee receives the appeal notification and provides it to the Rate Appeal Board. The committee also provides a clerk to the board to undertake its functions. The board makes an annual report to the Supervisory Committee by way of advising of the appeals received and drawing to the committee's attention any issues arising in relation to assessments. Deputy Morel needs to listen carefully now because I can advise him that there have been very few appeals since the introduction of fixed rateable values in 2003 and no appeals were undertaken in the last 3 years. But of course, I take this opportunity to thank those members of the public who have put their names forward for consideration by us today, as well as to note the service of Ms. Vibert, who, if this is approved, will serve for a further term of office.

The Bailiff:

Thank you very much, Connétable. Does any other Member wish to speak on the proposition? If no other Member wishes to speak on the proposition, then I close the debate and call upon the Minister to respond.

6.1.4 Deputy S.J. Pinel:

I thank the Connétable of St. Lawrence who has answered most of the questions, I think, and also Senator Pallett for expressing his thanks as well, and the thanks for Mr. Le Heuze in his new role as Jurat. I think the Connétable answered the question; the panel last met in 2017, so, hopefully, they will not be too busy but as the Supervisory Committee oversee this it is, I think, quite self-explanatory, from what the Connétable has said. I move the proposition and ask for the appel, please.

The Bailiff:

The appel is called for. I ask Members to return to their seats and I ask the Greffier to open the voting. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The proposition has been adopted.

POUR: 42		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

7. Amendment to Standing Orders - Inclusion of Island Identity Statement (P.17/2022)

The Bailiff:

The next item of Public Business is Amendment to Standing Orders - Inclusion of Island Identity Statement, P.17, lodged by the Minister for International Development. The main respondent will be the chair of the Privileges and Procedures Committee. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to make the following amendment to the Standing Orders of the States of Jersey with immediate effect - 1. Standing Order 21 [How a proposition is lodged] amended - after paragraph (3) insert the following paragraph - “(3A) The draft must be accompanied by the proposer’s statement of how the proposition, if adopted, would either enhance or diminish the Island identity and the international reputation of Jersey.”

The Bailiff:

Minister, I am going to assume that you might want to take longer than 5 minutes.

Deputy C.F. Labey of Grouville:

I could probably do it in 5 minutes but the debate, I do not know, it is up to Members.

The Bailiff:

Of course, it is a question of whether you want to propose and second before the luncheon or after that.

The Deputy of Grouville:

I would probably prefer to do it after and we can debate it all at once.

The Bailiff:

I think in the circumstances we are very close to 1.00 p.m.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment is proposed. Very well. The Assembly stands adjourned until 2.00 p.m.

[12:53]

LUNCHEON ADJOURNMENT

[14:06]

The Bailiff:

Members will perhaps not be surprised if I make an observation. I know memories can fade over the distant passage of time but it was only yesterday morning that the Assembly voted that we would finish at 1.00 p.m. and start at 2.00 p.m. A large number of Members made the effort to be back but we still could not manage a quorum and, consequently, I think Members might like to reflect on when the Assembly says it is going to meet again at 2.00 p.m., we are here capable of meeting at 2.00 p.m. **[Approbation]** Very well, we now continue. We have read the citation for the amendment for Standing Orders and it is now to be proposed by the Minister.

7.1 The Deputy of Grouville:

So, this amendment is intended to make Members think about the Island identity and international profile when lodging propositions and to encourage consideration of our identity upstream before the

formulation of future policy. The overarching objectives of the Island's identity project are to encourage people living in Jersey to be civically engaged and proud of their Island; secondly, that Jersey has a recognisable and positive international personality; and, thirdly, and most relevant to this proposition, is to ensure public policies coherently support and develop Jersey's distinct identity. The Policy Development Board considered this amendment to be key in achieving this third objective and made it one of the board's published recommendations which was then consulted upon. It is surely important to consider the consequences of bringing forward legislation and propositions beyond that of just finance and manpower as we have just done this morning in adopting the C.R.I.A. in children's law. So, if we are to achieve a consistent narrative about our Island and indeed how we wish others to see us on the international stage, we believe that adopting this recommendation is the right way forward. This amendment aims to ensure Island identity considerations form a central part to propositions brought to this Assembly which I do not consider, nor is it intended, to be an over-burdensome task. I appreciate that Jersey's identity can be subjective, difficult to measure and can be viewed through several lenses, whether that be constitutional, cultural, civic, historic, international, economic, environmental, social and more. Guidance, and to be helpful, the identity concept can be applied and considered alongside the specific goals of the report which are listed in appendix 2 of my report at page 9. These goals point to some concrete outcomes which can be applied across the breadth of public life in a range of policy areas. These goals could be developed into a matrix and used to form part of the Members' statements and, indeed, a matrix of other issues like the finance and manpower and like the impact to children could be, and maybe should be, what we adopt when we are lodging propositions. Now I full accept that there may be occasion when there will be tensions between different concepts which might themselves conflict but this at least invites the Member to weigh up, at least consider and then assess the overall outcome to the Island. Others might disagree with that assessment. They might feel that the proposition brings a detrimental effect to the Island and that is perfectly fine. This is the debating Chamber in which we should consider the Island's reputation and how we wish it to be portrayed. It is also perfectly feasible that a proposition is neutral in respect of identity, in which case, a statement would simply say so. The comments of P.P.C. (Privileges and Procedures Committee) are disappointing especially as the Policy Development Board's original document, the subsequent consultation document and my direct discussions with them did not highlight their negativity or question the recommendation in contrast to other departments, Ministers and arm's length bodies, the private sector and Scrutiny who were all positive and could understand the benefit in advancing this recommendation into our policymaking. P.P.C. questioned whether including this requirement in Standing Orders will assist in achieving the outcome sought by the Island identity project. Surely, they realise that States Assembly decisions directly impact public policy so there is absolutely no doubt that this amendment assists in achieving the outcome sought by the project. They also question that writing a short paragraph at the end of a proposition could be prohibitive to Members. That really depends on a Member's priorities and whether they consider the Island's identity, international profile and reputation to be a worthy priority and of consideration. I will leave it there and I look forward to the debate.

The Bailiff:

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition?

7.1.1 Senator S.Y. Mézec:

Purely so the debate does not go without anything being said at all, I rise purely to say that I think this is a complete waste of time and it will not have my support.

[14:15]

7.1.2 Deputy D. Johnson of St. Mary:

I think the Minister mentioned that she had the support of Scrutiny and certainly the panel has had hearings and presentations with her when the international reputation was discussed but I cannot, from my own memory, recall that we went as far as having anything obligatory to go into propositions. Certainly in the course of the Economic and International Affairs Scrutiny Panel, we do think already that, if we were to bring a proposition, we would have in mind the Island's reputation. In fact, that is commonplace when we do our reports but having it as a mandatory requirement, I doubt if it would bring much to the table, as it were. I do, as I say, basically agree with the comments contained in P.P.C.'s report that it will not necessarily further the international reputation cause very much so I shall, I am afraid, at the risk of offending my immediate neighbour, be voting against it.

7.1.3 The Connétable of St. John:

Jersey's identity is important. It is vitally important to us both here and to people who are looking in on Jersey but why are we debating this today? We heard this morning about bureaucracy slowing down the process when asking for an amendment to be put forward which involved children. What will this proposal do to increase civic engagement? I would suggest nothing. We had, I think, 18 Members vote against the panel's amendment this morning and I expect all of these people to be voting against this for the same reasons they used this morning and I will be voting against.

7.1.4 The Connétable of St. Brelade:

I am fully supportive of the principles of this proposition. The support that is alluded to in it is well-needed and well-directed. I question whether the inclusion on States propositions is going to be of benefit but I, for my part, am inclined to support it because anything we can do to achieve the proposals in it has to be good. So, I congratulate the Minister on making some inroads into that.

7.1.5 Senator S.W. Pallett:

I did not want to be silent on this. I think it would have been wrong if we had not debated this at all so I do want to give my views. I think the Minister, over this political term and during her tenure, has done an incredible job in raising the Island's identity on an international stage in making people aware, both here and wider afield, of the work that we do and I have to thank her for that. We have had a really good relationship with her on the Scrutiny Panel and I hope she feels we have been supportive of the work that we have done. In saying that, we have had a long debate this morning about child rights impact assessments and including them on propositions and I went along with that this morning. I have to say I had my doubts about the increased burden on Members and I think that was the right one to support because we have made a decision to put children first and I think to have not supported that would have been wrong. I just feel this particular proposition just takes that slightly too far in terms of what it is asking Members to provide when they are lodging propositions. That is not to say the identity of the Island is not important but I think there are other ways that we can show support for that rather than having to put a statement on a proposition that we bring forward. I think the comments paper is good in terms of what information it gives us but if I was to start adding statements to propositions, one I would prefer to see, for example, would be around sustainable well-being and the importance of physical and mental well-being and how a proposition would affect Islander's lives. So, if I was looking to increase what we provide on a proposition, it would be down that route so, unfortunately, I think this is just a step too far. I apologise to the Minister for not being able to support this. I think it is well-intentioned but I am afraid it is not one I can support. Again, I just want to thank her for all the work she has done because I think she has done a good job in this 4-year period.

7.1.6 Deputy K.F. Morel:

I have to speak in the manner of previous speakers as much as anything because the Connétable of St. John is absolutely right. I was one of those 18 who voted against Deputy Ward's panel

amendment purely because I am worried about putting in more and more hours, which are not quite the right words, but particularly for Back-Bencher propositions which means all of us when you are doing an individual proposition outside of Scrutiny or outside of Government where you are doing it yourself. We are just making it harder, harder and harder to bring such propositions and I still maintain that one of the fundamentally important aspects of the identity of this Island in terms of its democracy is that any one of us could bring a proposition on any subject. I think that is something that we need to bear in mind how important that is. I am someone who I think is probably quite well-known in the Assembly for being very strong on Jersey having its own identity. I am concerned that, for instance, in the area of external relations that we are not assertive enough in developing our own identity as separate from the United Kingdom. That is just our identity as separate and that is not being separate. It is just saying that we need to say: "We are Jersey. We are not the same." That made me think: "How would this proposition have worked with the T.E.C.A. (Trade and Economic Co-operation Agreement) that we had extended to us over Christmas back in 2020 when we very quickly had to have a debate as to whether to extend that to us or not?" If I was bringing that proposition for the T.E.C.A., I would have written at the end that this is a negative aspect on Island identity because it pulls us further away from the fact that we are between the U.K. and Europe and this is pulling us away from that European element of our culture which has always been there. Somebody else may well have said: "This is a positive thing because this is about reinforcing the fact that we are part of the Common Travel Area and we are part of the British Isles." So immediately when I thought about that one piece of legislation, it made me kind of come to that understanding that it is really hard for anyone to fulfil these stipulations, as the Standing Order would require, in an objective way because it is in no way objective. It is not something where you can ask a lawyer to compare it to the human rights laws that we have or you can ask the Children's Commissioner to help you compare it to our children's rights commitments or indeed objectively knowing whether this will cost money or not. So, there is an enormous element of subjectivity I believe involved, if we were to adopt this, in meeting its requirements and I do not think, therefore, that is really appropriate to have as a statement at the end which, in my view, should have an element of objectivity about it. It is quite right that, if anyone of us is writing a report through our own proposition, we should think perhaps about how that would affect the Island identity but that is something between us. It is something that, if I was bringing a proposition about Jersey having its own currency, let us say - and I am talking entirely theoretically, this is not my view and I am not aiming to do this - I would surely want to say in that report: "This will strengthen Jersey's Island identity." Equally, if I am bringing a proposition which is about a tweak to the financial services laws, it is not really going to be in my thinking as to whether this affects Jersey's Island identity or not. So, for the reasons of subjectivity, for the reason of not wanting to put anymore hurdles in the way of individual Members, not Back-Benchers, bringing their own propositions and amendments, I do not believe I can support this. I fundamentally support the Minister in the work she is doing because we do need to strengthen Jersey's identity as its own entity, as its own Island and as a people living here who govern ourselves and we must never, ever forget that.

7.1.7 Deputy M. Tadier:

I rushed back to speak because I was worried this might go through on the nod or at least without comments but that is not going to be the case now. I think this proposition is unfortunate, in a sense, because I think it detracts from the otherwise good work that is going on with the Island identity. I have to be careful with my words because I do not want to cause any offence to the mover of this proposition but I also know that she has been in the Assembly long enough to defend herself. So perhaps I will cut to the chase and say that I think that the piece of identity work that is going on is a great piece of work. I would say: "Do not rush it" because it takes a long time for any community, especially one like Jersey which has a complex relationship with its neighbours. Somebody sent me a travel book that has been published in Guernsey which has a quote from Victor Hugo in the opening. He analyses the Jersey and Guernsey psyche in which he says: "In the Channel Islands, there are

Jersey people there. They are English but they are not English. They are also French without knowing it but they are trying to forget that” or words to that effect. He said it slightly more eloquent than that but that is because he was a fellow of the French Academy. The point I would make here is that when you look at other countries like Wales, the Isle of Man and Scotland just to name a few, that has taken years and years and of course there is an inherent role that the language plays in that as well. I am not a quantum physicist but it strikes me that there is a parallel that can be used here to do with Heisenberg’s uncertainty principle which is that as soon as you try to pin down something as ephemeral as Jersey’s identity, it kind of vanishes and so that uncertainty is there. When you try and analyse it, it disappears. The other problem here is that we are conflating 2 separate issues. We talk about Island identity and then international reputation. The 2 are not the same thing at all. We spoke earlier today about the committee of inquiry. One of the main criticisms both of former Assemblies and Governments and indeed individuals was that they put Jersey’s international reputation ahead of the children and ahead of decisions that were being made ahead of social policy. What we really should be asking when we bring a proposal to this Assembly is not so much about the international reputation of Jersey and how that might be affected because those arguments will come up anyway. If we introduce a proposal to increase income tax to pay for a better bus service or to pay for school lunches, the usual arguments will come back saying: “Well, finance will leave and it might not attract investors and it might affect our international reputation.” You do not need to hardwire that into the proposition. It is another piece of work for Members to make but what about the local reputation of Jersey? That is what I am more interested in. When we do things in this Assembly, whatever it is and when we bring matters to the Assembly, how is it that the local reputation of Jersey will be affected? How will we be perceived in the esteem of the Assembly? I think that is much more important than any abstract concept. The implication here is: “Well, we better be careful what we bring because some people abroad might not like what we are doing” so on the one hand, yes, like Deputy Morel, I think this is an important piece of work to do. I think we have a Jersey identity here. In fact, we have Jersey identities and I think that is the issue we have, is that we have a complex society and we have various communities. As soon as we try to pigeonhole someone and fit them into that blancmange mould, if you like, and put it in the fridge, it comes out and it is all homogenous. That is exactly where you got the problem in the first place before we even start talking about what Jersey’s international reputation might be. We make decisions based on the proposals in front of us and we make our arguments as best as we can in written form or in verbal form when we present to the Assembly and it should be those arguments on which the propositions rest or fall.

[14:30]

7.1.8 Deputy C.S. Alves of St. Helier:

I was not going to speak because I think that the comments produced by P.P.C. say everything. However, there were a couple of things that have been mentioned that I just wanted to address, and I am not going to repeat anything that has already been said. I think the point has been made about this being very subjective. I think the point that the Deputy of Grouville spoke about wanting to make Members think is something that I am not against at all and I would like to believe that P.P.C. is not against either. I think Senator Pallett brought up the point: “What about including sustainable well-being?” What I would like to do is maybe offer some kind of alternative solution. I think there is no reason why this kind of thing cannot be included in some kind of guidance that is produced for Members when they produce propositions, for example, as one of the things that should be included in people’s reports. I think, having been a new Member as well and I did a proposition quite early on, it was not easy to write a report without any sort of real guidance although I did look back at other propositions to get an idea of what to write in that report. Maybe there is some kind of guidance work to produce some kind of guidance document to Members saying: “When you produce a report, these are the kind of things that maybe you should be considering when you produce that report and you might want to address in your report.” Yes, that was all I wanted to say.

7.1.9 Deputy S.M. Wickenden:

I just rise to say how ironic some of the arguments have been here today. There were so many statements in a previous debate about: "It is just a small statement and it will not slow anything down" and there is a complete U-turn. I just think it is quite ironic what the argument is now. I do not want an overly cumbersome system either and that is why I went against the Scrutiny Panel's amendment to my law, but there seems to be a complete U-turn in people's thinking which I think is ironic and needs to be pointed out. I have to say we already have a very subjective requirement in our Standing Orders that maybe has to be looked at because the financial and manpower statements that I have seen some Members put through for their amendments and their propositions have been laughable, absolutely laughable, with their idea of how much things will cost and the likes. I just think it is a bit disappointing to hear some of the completely circular turnarounds in arguments in this. I am not going to be supporting this as much as I completely support the Island identity and the fact that we need to be aware of it due to the process, but I had to point out the irony of some of these arguments that just does not bring this Assembly up in people's thinking.

7.1.10 Deputy J.H. Young:

I apologise for coming in late due to an unavoidable commitment. I just want to say that I think this is worthy of support, particularly because of the issue about the Island's identity which I think very much fits with the principle of place-making and, therefore, the kind of policies we have agreed in the bridging Island Plan which I think helps us do that. I just want to put in a caution that I hope "international reputation" does not become a euphemism for "international finance and economic benefit" because I think the social implications of how the Island is perceived internationally and all that excellent work done by the Minister are of vital importance to the Island. I fully recognise that but I just would like to make sure that I assume that there will be some guidance issued to try and manage the subjectivity of this and I hope that that will make it clear that international reputation is not just about the international financial services' reputation. Regarding sustainability, the way we have social policies which are progressive and I believe liberal and hold the Island in good stead are absolutely of vital importance so with those comments, I think I could support this.

7.1.11 Deputy R.J. Ward:

I would just quickly say I would not be supporting this. I address Deputy Wickenden's comment about irony. I think he has forgotten that he was the Minister who brought forward the C.R.I.A. proposition in there, which is the additional piece of work. This Assembly has just decided to make that consistent. I think that is quite an important point to make. There is a distinct difference between something like a C.R.I.A. - and I had to mention this earlier but I will mention it again - based upon an internationally agreed U.N.C.R.C. set of criteria where you can match what you are doing to them and they are very guided, for specific reasons, in terms of the rights of the child around the world. There is something very different about that which could be said to be slightly more objective and, dare I say, scientific in its approach because you can see what it is and what you have to do. Something that is so subjective as this I struggled with because there is not one definition of Island identity and I attended the Island identity workshop the other day, only a few of us did, and sat around with Members there when the discussions were going on and it was an interesting discussion because there was such a huge range of opinions on what that meant. To come away from that and then say how you enhance those different opinions would be very difficult. In terms of international reputation of Jersey, I am surprised to see the Minister for the Environment saying he may support this because I think he is right in terms of a euphemism for the finance industry. This Island is much more than that. As somebody who is an immigrant to this Island and has made their life here and my children's life here, this Island is much more than that. Because I did not come here for the finance industry. I came here as a public servant, effectively. It was a very good place to come for so many other reasons: the quality of life and the communities that are here. That is very difficult to define on a proposition and, I think, unnecessary. It is unnecessary to do this piece of work on a proposition

because the propositions that we bring should be doing this anyway, if anything should be doing it anyway. We are not against a standard criteria. If there was a United Nations identity of a country or domain that had a specific reason for existing because it was protecting human rights or whatever, then we would be looking at this again, but this is not that. I am afraid I cannot support this because I do not see it as necessary. However, I will say I think it is important that the Island looks for what its identity is from everybody that is here, whether you can track your heritage back 500 years or 20 or 10. Any really good place to live is welcoming to people and that is what I think we should be proud of in Jersey because that is one of the nicest things when you come here.

7.1.12 The Deputy of St. Ouen:

I would just like to rise to make the point that I think there are 2 important differences to the debate that we had this morning. First of all, this is a proposal that a statement be inserted in a proposition, whereas this morning we were arguing about statements to be added to amendments to propositions or amendments to amendments. This takes the very first piece of the debate and requires a brief statement. It is the proposer's statement which will be ... perhaps it may be subjective but it is nevertheless how the proposer would view. The second difference is that this is an addition to Standing Orders and not law, so it is going to be much easier to pivot and to adjust the Standing Order if it needs any sort of change or as it works through any decision to include or remove or amend it. For those reasons, I think it is quite feasible for us to be able to support this for it relates to a proposition and it is Standing Orders only.

7.1.13 Deputy J.M. Maçon of St. Saviour:

I will be supporting the Minister in her proposition here today. I am sure Members will be unsurprised, given that I was a member of the Island Identity Development Board. I just want to give an example of why I think these types of things are important. As the Minister said, it is not just thinking of Members in the Assembly, but of course it is about who supports Ministers or other Members bringing propositions to this Assembly and thinking about this particular aspect. Let us just take, for example, the Infrastructure Department. In our report, we did make the comment about how the panel thought that over time because of things like aesthetics and detailing and other missed opportunities, historic events that have happened in an area which is not given reference to, when something is developed in our physical world it just slowly over time chips and chips and chips away at Island identity. We know that other places have great success in preserving the physical world about them, the aesthetics of the world, and how that filters into culture, into identity, into all those matters. I think it is really important that this statement is put into propositions because it is about, as we had when the Minister for Children and Education brought his proposition, changing that culture, particularly when in Jersey - and we welcome them - perhaps those people who are newer to the Island who have not necessarily had that experience and do not have those networks and have those links, who do not necessarily think about how whatever proposition they are bringing will impact upon the Island's identity and its people. This is not just some flimsy reputation. It is also about physical things that we experience every day as Islanders go around their daily lives within the Island as well. That is why I think it needs to be done. Because when we did our Island Identity report, there were lots in ways in which the filtering down of that type of thought can make such a difference to whether it is the tourist experience, the residents' experience of the Island. There are so many missed opportunities that we have and I think the Minister here is trying to signal from the top and we want the Assembly to endorse what the Minister is trying to achieve in developing and promoting Jersey's unique identity. Now, that does not mean sometimes we might have to bring a proposition for whatever reason which may be negative, but the point is that it is thought about. The point is that it is demonstrated and it is acknowledged. I think this is a great opportunity which we are being presented with by the Minister, not in an ethereal way but in an actual, practical, real way, which makes a difference about how the residents of the Island live their lives and how we can improve them, how we can improve our culture, how we can improve our historical

acknowledgement within the Island. I just give that one example of the Infrastructure Department. There are many other ways in which it can manifest itself, but my hat is off to the Minister for bringing this. Certainly, when we went through the Island identity process, there was a lot of criticism to say: “Oh, this is not important. Have you not got more important things to be worrying about?” when fundamentally who we are and how we identify ourselves as being uniquely Jersey is something really important to Islanders when we stopped Islanders and talked people through the issues. I commend the Minister for bringing this forward. She is going to get a bit of bashing today but I am fully behind her.

7.1.14 Connétable J. Le Bailly of St. Mary:

I applaud the Deputy for the work done on this project. However, people are telling me: “Why are we doing this? It is not necessary for the people of this Island. Surely there are more important issues to deal with.” I have to bow to their wisdom and request that I will not support this.

[14:45]

7.1.15 Deputy I. Gardiner of St. Helier:

I will be swift. Identity is an evolving thing that we are struggling to establish at the present. It is a work in progress. When we compare to the children’s rights assessment, we have clarity. We have a table that we can say yes, no, clear. Island identity is important for me as well and I do believe we might be in the future, when it will be clear what does it mean, which boxes, which questions we need to answer to establish, we can come back and discuss this. It is really subjective. I am not sure if Members remember that I brought a proposition to establish a life in Jersey test, and it was a proposition that there are several paragraphs. The first was nothing but a life in Jersey test, that people who come on the Island learn about culture, history, tradition, ways of living in Jersey and will do this test. It was for me to connect people to our Island identity, to bring all this in a coherent, cohesive space to think about it and to introduce newcomers to our Island identity. From my perspective, it would pass this test but I know that the Deputy did not support this one and voted against. So, it is very subjective. I did like and I would like to support Deputy Alves’ suggestion because we do have well-being. We have environmental impact. We declared a climate emergency crisis. We have population impact. We have cultural impact. I would think that the list of suggestions, guidelines, not mandatory, would help a lot to the new coming States Members. At this stage I cannot support it but I am open to welcome it maybe in the future.

The Bailiff:

Does any other Member wish to speak on the proposition? If no other Member wishes to speak, then I close the debate and call upon the Minister to respond.

7.1.16 The Deputy of Grouville:

I think I will start with the Constable of St. Mary and his contribution: there are always more important things to think about to do. Yes, there are. There will always be more important things, but it is a bit like our culture, our heritage. We will always find more important things to think about but if we ignore it, it will be eroded. That to many people is what is happening in our Island, our culture, the fact that our history is not taught in schools as it should be and stuff like that. So, it will be eroded. What this proposition is doing, as I said in the beginning, is to make people think, make Members think about the Island identity and the international profile when they are bringing forward propositions. To answer Deputy Gardiner and Deputy Alves, I did say while a 2-line statement could suffice, I would like to see us devise a matrix that goes in the back of propositions. As I said, appendix 2 could form the basis of that, could form a template that can be added to. But this is really about having a coherent vision for our Island and the project so far has been doing a lot of groundwork. We have put up a resource on the website for schools to use, for newcomers to the Island to use, so that they can download whatever about our history, culture, the economy, how the Island works. So

there is a resource for our schoolchildren and newcomers to the Island, so that is a start. There are lots of things in the project that are a start. It is groundwork. It is not something that we sit in a room and invent. It has to come from the bottom up but people have to be aware of what our constitution is, what our history is, what our culture is, before we can develop it further. I will just look through some of the comments. To take Senator Pallett, I agree, mental well-being is hugely important. There is nothing wrong with having a matrix develop that we go through and we tick the boxes and we consider them and we agree or disagree. To answer the Constable of St. John, no, this particular recommendation, this particular proposition, probably will not do anything to engage people civically. What I said in my opening remarks was that this is advancing the third objective, which is public policies to coherently support and develop Jersey's distinct identity. That is what this is specifically doing. There are other propositions, other recommendations, that look to involve people civically. I do not know if there is anything more to add. I hear people. I would like to see us put it on the agenda. I do not see our culture, our Island identity, our international profile ... and yes, they are 2 different things, who we are as a community and how others see us looking in, so there are 2 aspects to it. But it is to make people think. It is to put it on the agenda. It is to consider. It is to prioritise our Island identity. Frankly I do not see this as a hurdle; I see this as something we ought to be doing, and even if the proposition is neutral at the end it is about the vision and if we cannot speak ourselves up, if we cannot have a coherent vision, then who do we expect to do that for us? I make my proposition.

The Bailiff:

I invite Members to return to their seats and I ask the Greffier to open the voting. If Members have had the opportunity of casting their votes I ask the Greffier to close the voting. The proposition has been defeated.

POUR: 17		CONTRE: 25		ABSTAIN: 0
Senator L.J. Farnham		Senator T.A. Vallois		
Connétable of St. Brelade		Senator K.L. Moore		
Connétable of Grouville		Senator S.W. Pallett		
Connétable of Trinity		Senator S.Y. Mézec		
Connétable of St. Ouen		Connétable of St. Helier		
Connétable of St. Martin		Connétable of St. Peter		
Deputy J.A. Martin (H)		Connétable of St. Mary		
Deputy of Grouville		Connétable of St. John		
Deputy K.C. Lewis (S)		Deputy G.P. Southern (H)		
Deputy J.M. Maçon (S)		Deputy M. Tadier (B)		
Deputy S.J. Pinel (C)		Deputy M.R. Higgins (H)		
Deputy of St. Ouen		Deputy of St. Martin		
Deputy R. Labey (H)		Deputy S.M. Wickenden (H)		
Deputy G.J. Truscott (B)		Deputy of St. Mary		
Deputy J.H. Young (B)		Deputy K.F. Morel (L)		
Deputy L.B. Ash (C)		Deputy G.C.U. Guida (L)		
Deputy of Trinity		Deputy of St. Peter		
		Deputy of St. John		
		Deputy M.R. Le Hegarat (H)		
		Deputy S.M. Ahier (H)		

		Deputy J.H. Perchard (S)		
		Deputy R.J. Ward (H)		
		Deputy C.S. Alves (H)		
		Deputy K.G. Pamplin (S)		
		Deputy I. Gardiner (H)		

8. Maintenance of Jersey's credit rating (P.18/2022)

The Bailiff:

The next item is the Maintenance of Jersey's Credit Rating, P.18, lodged by Deputy Morel, and I ask the Greffier to read the citation.

The Greffier of the States:

The States are asked to decide whether they are of opinion (a) that, for any issuance of debt proposed in a Government Plan, the plan should include a forecast of the likely effect of the debt on Jersey's future credit ratings, and the rates of interest that would be levied on the debt; (b) that, except in periods of emergency, the Minister for Treasury and Resources should ensure that the Government of Jersey's long-term credit rating should be maintained at a level of BBB or above (Standard & Poor's) or the equivalent for other ratings agencies; and (c) to request the Minister for Treasury and Resources to bring forward any changes to the debt framework, or other related policies, with a view to presentation to the States Assembly no later than 30th April 2022

Deputy K.F. Morel:

The opportunity was not there but the Minister has presented an amendment which I am willing to accept so I did not know if I should jump in then or not.

The Bailiff:

Yes, well I think what has to happen, as you will accept the amendment, speak to your proposition, we will put the amendment but clearly Members will have heard that you do not object to it and it may be that it will be dealt with on a much speedier basis as a result.

8.1 Deputy K.F. Morel:

Credit ratings are not ordinarily an area of excitement for States debate but I did feel that it was important to bring this particular proposition which I will speak to as if amended, though it does not make an enormous amount of difference. As with many Islanders and many States Members I am concerned about the levels of debt that we have already said that we are going to engage with. Quite rightly the Minister has created a debt framework - it could also be seen as a debt strategy - as to how the Government of Jersey will deal with debt and what constraints the Government of Jersey will place itself under with regard to debt. In short there are kind of 4 main areas to that. The first is there should be a medium-term debt to G.D.P. (gross domestic product) ratio of between 30 and 40 per cent. In theory the Minister for Treasury and Resources is saying our debt should not be greater than 30 to 40 per cent of G.D.P. That we should have a liquid asset buffer to G.D.P. in excess of 100 per cent. As I understand that, that would mean that if our G.D.P. is approximately £4 billion a year then we need a liquid asset buffer of £4 billion a year, which we do currently have when you combine all of the reserves. I may be wrong on that, but that was my understanding of it. We also need to maintain a coverage ratio of at least 1.0 for financing costs that are met from reserves, meaning that the investment returns are greater than the financing costs, which again is important and when we are talking about the hospital debt it speaks to that idea that our investment returns will pay the debt. Then the final one was the one which particularly caught my attention, that we will maintain an investment grade rating of BBB- and above under all market conditions. I was concerned about this,

quite simply because BBB- is the very lowest investment grade credit rating. Below BBB- you enter junk bond territory and obviously in junk bond territory you attract much higher interest rates. So I was concerned that there was no buffer between this aim to keep it at BBB- and above, and so if a future Minister for Treasury and Resources had enabled debt and had perhaps enabled a level of reserves in other matters which meant that our credit rating had fallen to BBB-, it would be very easy for an economic shock or a desire to take out more debt followed by an economic shock could push us into that junk bond territory. Then if there was some sort of emergency Jersey would be forced to borrow, and we have seen from the pandemic that we are forced to borrow in emergencies, and I think we all accept that and understand that. But if we were at BBB- and an emergency came along, we had to borrow, we could well find ourselves borrowing at junk bond levels and the resultant interest rates would be terrible. We have just spoken about Island identity; the reputation of Jersey borrowing at junk bond levels would be awful as well.

[15:00]

So, it seemed to me quite simply a common-sense view that the Minister for Treasury and Resources and future Ministers should seek to maintain a buffer in our credit rating that creates a space of one credit rating level between the aim, which in this case would be BBB and higher. Then there would be a buffer of BBB- so if there was an emergency when we borrow in that emergency we would perhaps at worst fall into that BBB- category but it will still be an investment grade rating and, therefore, attract better interest rates. So that is the simple logic of this proposition. I am very pleased that the Minister's amendment was something that I was able to work with. There was just one word in there which I was struggling with, which is why I left it late to decide whether to accept it or not, and that was the word "endeavour" because I know endeavour is just one of those words. I think States Members understand what I mean. But ultimately other aspects of the Minister's amendment such as new debt; this was always about new debt. As far as I was concerned the debt we have agreed in this Assembly to take on, that is past; this is about new debt. Future Government Plans, absolutely, it does not affect this Government Plan and was never meant to. There is the word "might" I did not think changed much. The one thing I have not discussed is the Minister has changed it so the Council of Ministers should endeavour. My original proposition said the Minister for Treasury and Resources. I am satisfied either way and I accept that it probably is best placed with the Council of Ministers. Then came the word "endeavour". Interestingly, the Minister changed what I had as the Government of Jersey to the States of Jersey, and I had spent some time trying to work out where the debt or the credit rating was; was it with the Government or the States of Jersey. So I am pleased to see the States of Jersey has been put in there. I think that is the right thing to do. I am hoping that other States Members will see this as quite simply a common-sense move which will give us a bit more security over our levels of debt and over the interest payments that we would have to make in the future. I hope by accepting the Minister's amendment I give comfort to other Members to agree and to support this. With that I make the proposition.

The Bailiff:

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

8.2 Maintenance of Jersey's credit rating (P.18/2022): amendment (P.18/2022 Amd.)

The Bailiff:

There is an amendment to the proposition and I will invite the Greffier to read the amendment.

The Greffier of the States:

(1) Page 2, paragraph (a) - After the words "issuance of" insert the word "new"; before the words "Government Plan" insert the word "future"; for the word "Plan" substitute the word "Plans"; and for the word "would" substitute the word "might". (2) Page 2, paragraph (b) - For the words "Minister for Treasury and Resources" substitute the words "Council of Ministers"; before the word

“ensure” insert the words “endeavour to”; and for the word “Government” substitute the word “States”.

8.2.1 Deputy S.J. Pinel (The Minister for Treasury and Resources):

I thank the Deputy for accepting my amendment. I shall be brief because a lot of it is not applicable anymore, but I just wanted to provide some information that Members might find useful on the relationship between the credit rating agencies and the entities which they assess. The States of Jersey was first assigned a credit rating by S. & P. (Standard & Poor’s) in November 2013. The rating was AA+ and the outlook was stable. Since then the agency has conducted 15 reviews of the States credit rating, 2 of which led to downgrades. Both of those downgrades were in 2016 and S. & P. cited external factors which might have a direct impact on Jersey - Brexit and increasing regulatory complexity - as the rationale for the change. When the States put in place its first public bond of £250 million in 2014 there was no change to the credit rating or outlook. Like the Deputy, and all States Members, I share his desire to maintain as high a credit rating as possible. The reporting metric within the published debt framework to maintain a minimum rating of BBB- appears to have been misinterpreted by several observers as a willingness on my part to let the rating drop several notches, with little concern of the impact this would have had on the States’ finances. This could not be further from the truth. Firstly, I was very pleased when S. & P. reaffirmed our credit rating at AA- in January this year and maintained our outlook as stable. This was achieved against a backdrop of a difficult period for the economy in response to the pandemic and the significant financial support that this Government provided from its own balance sheet. The BBB- metric simply reflects the lowest level of what is known as an investment grade. An investment grade rating indicates a low risk of default and the ability to meet debt obligations and is particularly important to more conservative investors. It is often also the cut-off point for many corporate investors who are likely to purchase States of Jersey debt now or in the future. Below BBB- the potential investor base for States debt is significantly reduced. I hope that helps States Members and I shall be supporting the proposition as amended.

The Bailiff:

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the amendment?

8.2.2 Deputy J.H. Young:

A question, again this is not my area but I did wonder, listening carefully to the Minister there giving us the history of the credit ratings assessments, the last one was in January 2022. Can I ask if the Minister in her summing up could let us know whether she thinks that takes account of what we have seen and the hyper-level of inflation which seems to be threatening now, and the global instability? Does the Minister expect that is likely to change by the time we seek to execute our borrowing plans in the Government Plan?

The Bailiff:

Does any other Member wish to speak on the amendment? If no Member wishes to speak on the amendment then I close the debate and call upon the Minister to respond.

8.2.3 Deputy S.J. Pinel:

I was not aware that I had to sum up as the Deputy had already accepted the amendment. But in answer to the Minister’s ...

The Bailiff:

The basic rule is that if someone speaks after the seconding then you have a right to respond to anything they say. You have not got to sum up; you have not got to say anything at all. It is an invitation.

Deputy S.J. Pinel:

Thank you, Sir. In answer to the Minister's question, no, we are not expecting any drastic changes at all because the borrowing for the hospital, for instance, has been organised to be effected at the end of April with 4 different banks and it is going to be a very long-term borrowing rate so hence it will be a lower interest rate than might be expected next year.

The Bailiff:

Are you prepared to give way, Minister, for a point of clarification?

The Connétable of St. John:

The Minister has just said that the borrowing for the hospital will be done at the end of April. The chief executive at a P.A.C. (Public Accounts Committee) said it would not be done until August.

Deputy S.J. Pinel:

The agreements will be made at the end of April.

The Bailiff:

I am not sure that is something we can take any further for the purposes of this debate. In any event I now put this amendment to the vote. I ask the Greffier to open the voting. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The amendment has been adopted.

POUR: 42		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				

Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

8.3 Maintenance of Jersey’s credit rating (P.18/2022) - as amended

The Bailiff:

We now return to the debate on the proposition as amended. Does any Member wish to speak?

8.3.1 Senator K.L. Moore:

I will not keep the Assembly, but we covered the ground on this matter quite considerably at the Government Plan stage and I think I can speak for the rest of the Corporate Services Panel to say that we would wholeheartedly endorse the Deputy’s efforts to bring this proposition and make the intention so clearly stated, given the risks that we made very clear at the time of the Government Plan.

The Bailiff:

Thank you very much, Senator. Does any other Member wish to speak on the proposition as amended? If no Member wishes to speak then I close the debate and call upon Deputy Morel to respond.

8.3.2 Deputy K.F. Morel:

I thank the Senator and her panel for their support in this. I just wanted to reiterate really, and I also wanted to say that I understand always that the Minister for Treasury and Resources was not intending to bring the credit rating to BBB-, it was just that was the very bottom level. I am just suggesting we have the very bottom level as slightly higher than that. But I also wanted to point out that a lot of the thinking behind this proposition was because of the global uncertainty, it was because of the pandemic, and to be honest as well, Brexit. I think the last few years have shown us that we are not sheltered from sudden and unexpected knocks and unexpected circumstances which can force us to borrow. So, this is very much focused on that. But if we keep the credit rating level higher than the lowest investment grade then we just allow ourselves that buffer which enables us to borrow in a time of emergency without worrying so much about exiting the investment grade territory. With that I make the proposition and ask for the *appel*.

The Bailiff:

The *appel* is called for. I invite Members to return to their seats and I ask the Greffier to open the voting. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The proposition has been adopted as amended.

POUR: 43		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				

Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Deputy K.F. Morel:

Thank you, Members, and I would point out to the Greffe the clock is still ticking.

9. Draft Banking Business (Amendment No. 9) (Jersey) Law 202- (P.20/2022)

The Bailiff:

We now come on to the next item which is the Draft Banking Business (Amendment No. 9) (Jersey) Law, P.20, lodged by the Minister for External Relations and Financial Services. The respondent will be the chair of the Economic and International Affairs Scrutiny Panel, and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Banking Business (Amendment No. 9) (Jersey) Law 202-. A law to amend the Banking Business (Jersey) Law 1991 to extend powers to the Jersey Financial Services Commission in relation to auditors. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

9.1 Senator I.J. Gorst (The Minister for External Relations and Financial Services):

I have asked my Assistant Minister to act as rapporteur for this item. I am aware, however, he is online.

9.1.1 Connétable R.A. Buchanan of St. Ouen (Assistant Minister for External Relations and Financial Services - rapporteur):

The Draft Banking Business (Amendment No. 9) (Jersey) Law proposes some technical amendments to the Banking Business (Jersey) Law 1991. This has been lodged at the request of the Jersey Financial Service Commission following a number of years work to modernise the supervisory oversight of the J.F.S.C. (Jersey Financial Services Commission) over banks. The draft amendment harmonises definitions in the law with the effect that the J.F.S.C. has the same powers in respect of financial reporting to the J.F.S.C. by banks, regardless of whether the bank is incorporated in Jersey or is a branch from an overseas foreign entity. When the law was originally drafted the majority of banks in Jersey were incorporated Jersey entities, whereas now the majority operate as branches of foreign entities. This proposed law ensures that it is clear that the J.F.S.C. has the same authority in respect of a bank’s auditors regardless of whether the bank is an entity incorporated in Jersey or operating as a branch from another jurisdiction. If approved, it would enable the J.F.S.C. to further clarify their supervisory expectations for such banks in their own code of practice for banking business. The proposition itself simply harmonises these definitions to ensure that the J.F.S.C.’s powers in respect of supervisory reporting are consistent, regardless of a bank’s corporate structure. If approved, the change would allow a clearer foundation for the delivery of a number of technical changes via secondary legislation in the J.F.S.C.’s own codes of practice, such as requiring banks to notify the J.F.S.C. of certain audit events, requiring a bank’s accounts to be published on the bank’s website rather than at the moment just being available in branches, and enabling the J.F.S.C. to require the external audit of prudential returns.

[15:15]

In essence, these changes will clarify that the J.F.S.C. has the appropriate tools to supervise banks from a prudential and financial management perspective and require better accessibility of financial information to customers and the public. The J.F.S.C. has carried out public consultation on the wider changes and has liaised with the working group of the Jersey Bankers Association and auditors. Responses did query how frequently the J.F.S.C. may require a bank to have an external audit of their prudential returns to the J.F.S.C. but this is ultimately a question of how the J.F.S.C. applies its supervisory model rather than a point of law related to this proposition, and as such sits within their purview as operationally independent regulator. Adopting this proposition would also enable the bringing into force of another amendment, Banking Business (Amendment No. 7) (Jersey) Law 2011, which provides an enabling power to create financial reporting orders under the banking law. Although amendment number 7 was previously approved by the States, for it to be enacted changes proposed by this proposition, amendment 9, were first required to be made. As I have explained, the proposed changes to the Banking Business Law in this proposition are very targeted but it adds important clarity that the J.F.S.C. supervisory powers standing on an equal footing regards how the bank might reasonably choose to structure itself. I move the principles.

The Bailiff:

Are the principles seconded? **[Seconded]**

9.1.2 The Deputy of St. Mary:

Simply to say that the Economic and International Affairs Scrutiny Panel had a presentation on this matter. We were advised of the consultation process which took place before and we fully support what is proposed.

The Bailiff:

Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles then I close the debate and call upon the Connétable of St. Ouen to respond.

9.1.3 The Connétable of St. Ouen:

I think it will be a fairly short summing up. I would just like to thank the Deputy of St. Mary and the panel for their usual excellent advice and co-operation with my officers and myself. I ask for the *appel*.

The Bailiff:

The *appel* is called for. I invite Members to return to their seats. The vote is on the principles of P.20, and I ask the Greffier to open the voting. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The principles have been adopted.

POUR: 43		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				

Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

I take it, Deputy of St. Mary, your Scrutiny Panel is not going to call the matter in. How do you wish to deal with the matter in Second Reading, Minister?

The Connétable of St. Ouen:

There are only 6 articles. I would like to take them *en bloc* if possible.

The Bailiff:

Yes, did you want to speak to them or simply answer questions?

The Connétable of St. Ouen:

I am more than happy to answer questions.

The Bailiff:

Are the Articles seconded? [**Seconded**] Does anyone wish to speak to any of the Articles in Second Reading? If no Member wishes to speak then I close the debate and ask the Greffier to open the voting. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The Articles have been adopted in Second Reading.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				

Deputy C.S. Alves (H)			
Deputy K.G. Pamplin (S)			
Deputy I. Gardiner (H)			

Do you wish to take the matter in Third Reading, Connétable?

The Connétable of St. Ouen:

Yes, please, and I would like to thank Members for their support so far. It may seem to be a rather dry piece of financial services legislation but as an ex-banker it tidies up what is a rather outdated set of banking regulations. So, I very much appreciate their support so far. I propose the matter in third reading.

The Bailiff:

Thank you. Is the law seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading then I close the debate and ask the Greffier to open the voting. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The law has been adopted in Third Reading.

POUR: 39		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				

Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

10. Draft Employment (Amendment No. 12) (Jersey) Law 202- (P.21/2022)

The Bailiff:

The next item is the Draft Employment (Amendment No. 12) (Jersey) Law, P.21, lodged by the Minister for Social Security. The main responder will be the chair of the Health and Social Security Scrutiny Panel. I ask the Greffier to read the citation.

The Greffier of the States:

Draft Employment (Amendment No. 12) (Jersey) Law 202-. A law to amend further the Employment (Jersey) Law 2003. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

10.1 Deputy J.A. Martin (The Minister for Social Security):

Last May the Assembly agreed that work should begin on the wide-ranging review on the operation of zero-hour contracts in Jersey. Part of the agreement related to a separate piece of work to bring forward legislation relating to exclusivity clauses in zero contracts by the end of March 2022. I am pleased to report the Employment Forum has already begun its wider review. Today I am bringing to the Assembly an interim amendment to the Employment Law which, if approved, would make exclusivity clauses in zero-hour contracts unenforceable. As I have said in my report to this proposition, there is no current evidence that exclusivity clauses are being used in Jersey. That said, they are an unfair restriction on the ability to an employee on a zero-hours contract to work for more than one employer if they want to. This is a complicated area and, as I say, it is not watertight in terms of preventing an unscrupulous employer from trying to get around a law which protects the rights of zero-hour workers. This amendment to the Employment Law will not resolve the problems seen in the laws of other countries. The proposed definition of a zero-hours contract is taken from existing Jersey legislation, the Control of Housing and Work (Exemptions)(Jersey) Order 2013. It is not the final word on the subject. The Employment Forum will be considering in detail each part of the original proposition we debated in May last year, including whether a different approach should be taken to protecting the rights of workers who do not have the guaranteed working hours. For now we have made a positive start in this area and I commend the amendment, and I maintain the proposition.

The Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles?

10.1.1 Senator S.Y. Mézec:

I am pleased that this legislation is before us and I will be wholeheartedly supporting it, as I hope other Members will do. But I am not going to let this moment pass without saying frankly how angry I am at how long this has taken. It was in 2016 that I brought a proposition to this Assembly calling for exclusivity clauses in zero-hours contracts to be banned, and I was told that this was not a simple matter and that it would take a significant amount of time to deal with because partly there was no definition in Jersey Employment Law for what a zero-hours contract was, so you could not simply pass a line that said: “No more exclusivity clauses” you had to put something in the law first that defined what a zero-hours contract was. We are now 7 years later and it is a paragraph in this. It is one paragraph that puts in that definition and then another paragraph with 2 subpoints outlawing the exclusivity clauses. I do not lay this at the door of the current Minister for Social Security, I do not think that she is to blame or in fact her predecessor, because it is a similar problem that we had when it came to the legislation to prohibit discrimination against tenants with children. We were told: “This will take a very long time, it is oh so complicated.” Then when the legislation finally reached this Assembly it was one page. Both bits of legislation do not refer to other pieces of legislation; it is just one bit that they are seeking to amend. So I am angry because frankly I feel fobbed off. I think that I was misled, not by politicians but by others, to be told that this was a more complicated piece of work than it has transpired to be. It shows behind the scenes the lack of interest there is on important pieces of social legislation that have a big impact on the people who are affected by it, who in both instances have been people who will be from lower socioeconomic backgrounds. Let us look at the Order Paper for the rest of this sitting. How many pieces of legislation are there to do with things like Limited Liability Companies Law and other associated pieces? So frequently we come to this Assembly and we will be asked to approve pages and pages and pages of extremely complex but important bits of law to do with parts of our economy, but when it comes to what turns out to be relatively simple legislation on important issues which matter very greatly for those suffer as a result of them, we are told that: “It is too complicated.” This has taken 7 years to come up with 2 paragraphs. Something behind the scenes is wrong. I feel misled and I am extremely angry that it leads us to this position. In 2016 was when I first raised this; it is not good enough and whatever process behind the scenes leads to this that sees our social legislation downgraded in this way has got to be overturned so that we can be more nimble, or frankly as nimble as we are when it comes to the important economic regulations, when it comes to these things that affect people’s economic well-being, for those perhaps in zero-hours contracts or those in other areas that are affected by this. Something has got to change but I will be voting in favour of this.

Deputy M.R. Higgins:

Sir, I asked for a point of clarification.

The Bailiff:

If you will excuse me, Deputy, I am sorry, I missed Deputy Higgins’s point of clarification. Yes, what is your point of clarification, Deputy?

Deputy M.R. Higgins:

The former Minister said that he was misled on this particular thing and he did not blame politicians. I would like to know, if he would clarify, who misled him. I think we have a right to know.

The Bailiff:

Well, it is not a question of a right to know, it is a question of identifying individuals is not in accordance with Standing Orders unless it is the subject matter of the debate.

Senator S.Y. Mézec:

Of course, I would never dream of naming an officer on the floor of this Chamber in that way so of course I will not do so. It will be partly to do with officers who I felt had priorities which did not align with those who they were democratically accountable for, but also the system itself. But I am happy to discuss with the Deputy outside of the Chamber.

The Bailiff:

Thank you very much, Senator. That is quite appropriate.

10.1.2 Deputy K.F. Morel:

I really - through the Chair naturally - wanted to address Senator Mézec, and really, I wanted to say I understand the Senator's anger but he should also be quite proud that he started the ball rolling. It may well have been 7 years ago but this legislation is here, it is here today and it is here with the Minister's name on it which makes it much more likely that it will be passed. I have no doubt that it will be passed; the Minister is quite right to bring this. Zero-hours contracts I believe have a place but I also completely agree that there should be no abuse of zero-hours contracts and exclusivity is an abuse of zero-hours contracts. So there is no question I will be supporting this and I thank the Minister for bringing it. But, yes, Senator Mézec, I really do understand where his frustration comes from but perhaps he could also give himself a little pat on the back.

10.1.3 Deputy J.H. Young:

I am delighted to see this. I do recall when I was first elected to the Assembly in 2011 I was also raising the same issue, so it is 10 years since I think this issue has been current.

[15:30]

I would hope that given the tight labour market at the moment and the complete turnaround as the result of Brexit and so on that the zero-hours contracts now are less used by employers. One can hope. But, nonetheless, we absolutely need this. But I was looking back and I was reminded that one of the worst culprits of the use of zero-hours contracts was in fact the States itself. I was trying to track it back, I was reading through questions and I see here that in May 2011 I think it was Deputy Southern who put a question about the review ... there was going to be a review of zero-hours contracts by States departments which was promised in 2012. What the answer says is that the States Employment Board were investigating this and going to ensure that the contracts were fair. Now, I would like to hear from somebody, hopefully it might be a member of the States Employment Board, to be assured that we do not use these contracts where they should not be used. For example I do recall, and I am probably going to upset people now, the Health Department was a major use of zero-hours contracts and they have fobbed off about explanations of bank nurses; people who were employed in jobs on zero-hours contracts working within hospital administration or medical secretaries, who were not allowed holidays, leave, or anything else like that and were not able to take on other work. So, I would like to hear from somebody that all that has ceased. I hope that we put our practice where our laws are with this one. I feel passionately about it, and well done for the Minister in bringing this forward and I ... speed to the work that is going on about doing all the clarification and so on because this obviously only deals with exclusivity clauses, which really should never have even been there. But well done, let us speed on the rest of the reform work on this.

10.1.4 The Connétable of St. Ouen:

Firstly, some embarrassment at Senator Mézec's comments as I and the Minister for External Relations and Financial Services are responsible for a large volume of the financial services legislation. The only thing I would say is that we are doing this because of the upcoming MONEYVAL review and the necessity to make sure our legislation is tidied up. But it does not mean to say ... I am quite shocked that zero-hours contracts currently have the ability to have exclusivity clauses in them. I do not like exclusivity clauses in any contract, least of all zero hours. The very nature of a zero-hours contract is that the person is available as and when the work is available, but

they should not be precluded from working for another employer. Responding to Deputy Young's comments, which have rather taken me by surprise, and I obviously do not have anything prepared in front of me, but I give the Deputy an assurance that I will ask the question and refresh my memory on what we have done with zero hours because I know we have reviewed them extensively, and I will circulate something to Members with details of that review on it. But I shall definitely be supporting this and I sort of share the Deputy's anger that it has taken this long to get this far, while congratulating the Minister for bringing this legislation forward, because zero-hours contracts with an inclusivity clause are, to my mind, iniquitous because it stops people from being flexible, which is the whole purpose of a zero-hours contract. If they are working for somebody on a zero-hours basis with no guarantee of work they should of course be free to work for another employer on the same basis, and then resolving complexes between the person on the zero-hours contract and the person who employs him or her. So I will definitely be supporting this. I am not sure I am going to apologise for the extensive amount of financial services legislation because it is absolutely necessary, but I understand exactly where the Senator is coming from.

10.1.5 The Deputy of St. Ouen:

I feel I should try and say something in response to Deputy Young's speech. The difficulty is, of course, he can only ask a question of the Minister who is presenting this proposition if he requires any work around the subject the matter of this proposition. So, the subject matter of this proposition lies with the Minister for Social Security, and I do welcome what has been brought forward in the proposition. It is something that has been on the boil for many years and it is something that is needed, it is iniquitous that persons should be prevented from undertaking work if they are gainfully engaged in work for a single employer. So, we do need to do this. But Deputy Young has enlarged the remit of this debate by asking questions of me when I am not the Minister presenting the proposition. I can certainly with notice give him a lot of detail about what H.C.S. (Health and Community Services) or the hospital may have done, but I do know and I can assure him that there was a thorough review of zero-hour contract working in H.C.S. and, indeed I believe, across Government. There are now no instances in H.C.S. where these contracts are enforced on somebody and are inappropriate. There are many instances of course where our staff choose to work that way because it offers flexibility. That is welcomed, I am very grateful to them, and by far away the majority of those workers are what we call the bank workers who will come in at short notice when asked. There is no other way of doing that really apart from a zero-hours contract, which they are happy to work to. But if Deputy Young still wishes me to give further details then as a Minister he can always contact me and I will provide him with that information, as I would indeed to any other Member who may seek to ask.

10.1.6 Deputy G.P. Southern:

Just to say that this change, while laudable, is a very minor change in fact. No employers use these types of contracts, exclusivity clauses, on the Island which is why it is very easy to do this legislation because nobody actually uses it. However, the use of zero hours and unstable work is, I believe, consistently used in the Island often when it should not be. This is just the first step on the road and certainly in the next session, if I have anything to do with it, we will see some more legislation regulating the use of zero-hours contracts to make sure that they are fair. My own experience recently while I have been knocking on doors in preparation for building towards the election is that I have come across several workers, 2 of whom have just arrived on the Island, and when I asked them about what their terms and conditions were they said: "I am on a 9-month contract." One of whom was just leaving and said: "Sorry, I cannot vote in your election, I am just leaving and I just finished my 9-month contract." So, the use of a 9-month contract in the health section is taking place. That is, I

believe, where consistency and seeing the same people day-in day-out is important. A 9-month contract does not bode well and 9-month contracts are, it seems, becoming the norm for many people in health work and care work. So be warned that we will see more legislation in this area, whether it is me who brings it or somebody else, no matter, but this is just a start of things to come.

The Bailiff:

Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles then I close the debate and call upon Deputy Martin to respond.

10.1.7 Deputy J.A. Martin:

We have gone from a very passionate speech from a Senator to the Deputy who asked me to do this I think last time telling me there is really no need, I have got it wrong. There is already out there a massive wide review on looking at the whole of zero-hours contracts and Deputy Southern has just pointed out the problem with this. You call something, something, and it will be something else by the next. If you are an unscrupulous employer that is what you will try and do. I was not surprised about Senator Mézec’s speech, I heard it on the media when I lodged the change to the Articles and I saw it all over Facebook as well. I can only say again, as I do in my comments, you have to put legislation where you think legislation is needed, where it is being abused, and I could find no evidence. I take Deputy Southern back to when he was my Assistant Minister and he said to me: “Get Jackson here and I will prove to you there is definite abuse on zero-hours contract.” What they told me, they said: “Please look into annual leave and rest breaks.” So, I sent out the Employment Forum to do annual leave and rest breaks. Again, it kept coming back, it is coming back, and I am pleased the Deputy is going to keep coming back because I think we have passed some really brilliant - myself and the Minister before me, and probably the Minister before him, but you have to get there at a pace - some really, really good laws that do have good social impact on the Island. I know I am going completely off topic but it should have been something that goes through, you have done this, but let us not remind everybody that it has taken ... we have got a law now. It is not enforceable so I am not banning it, I am just going to make it unenforceable. Again this will be tested in law if you have unscrupulous employers. We do not want to support them. We are where we are and when Deputy Southern brings more back, if he is in this Assembly or I am, it will be on an evidence base that the Employment Forum is out now talking to all industries across all sectors to find out who is using and how they are using these zero-hours contracts. Deputy Young has been answered by the Deputy of St. Ouen. Deputy Morel said there is a place for zero-hour contracts, and of course there will be. Some people choose to do a certain amount of hours. This is banning an absolute practice that I do not think anybody in this Assembly ... well not banning, it is making it unenforceable, I do not want you to be able to tell me if I am working for you that I cannot work for anybody else on a few other hours, this should achieve that. I maintain the principles.

The Bailiff:

I invite Members to return to their seats. The vote is on the principles for this legislation. I ask the Greffier to open the voting and Members to vote. If Members have had the opportunity of casting their votes I ask the Greffier to close the voting. The principles have been adopted.

POUR: 45		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				

Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Deputy Le Hegarat, your panel does not wish to call this in or does wish to call this in?

Deputy M.R. Le Hegarat (Chair, Health and Social Security Scrutiny Panel):

No, thank you. We are happy to support this amendment.

The Bailiff:

How do you wish to deal with the matter in Second Reading?

10.2 Deputy J.A. Martin:

En bloc, Sir, yes. It is just one Article really.

The Bailiff:

Is the matter seconded for Second Reading? **[Seconded]** Does any Member wish to speak in Second Reading?

[15:45]

10.2.1 The Connétable of St. Ouen:

Just to say I will be supporting the Articles and just to point out to Members I have circulated a note to them saying that States zero-hours contracts do not contain an exclusivity clause.

The Bailiff:

Does any other Member wish to speak in Second Reading? If no other Member wishes to speak in Second Reading then I close the debate and call upon the Minister to respond.

10.2.2 Deputy J.A. Martin:

I thank the Constable of St. Ouen for that clarification but I think I did know that answer. I just maintain the Second Reading.

The Bailiff:

I invite Members to return to their seats and ask the Greffier to open the voting. The vote is on the Articles in Second Reading. If Members have had the opportunity of casting their votes I ask the Greffier to close the voting. The Articles have been adopted in Second Reading.

POUR: 44		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				

Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Do you wish to deal with the matter in Third Reading, Minister?

Deputy J.A. Martin:

Yes, Sir.

The Bailiff:

Is the matter seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading then I close the debate and I ask the Greffier to open the voting. If Members have had the opportunity of casting their votes I ask the Greffier to close the voting. The law has been adopted in Third Reading.

POUR: 43		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				

Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

11. Draft Income Tax (Amendment of Law - Limited Liability Companies) (Jersey) Regulations 202- (P.25/2022)

The Bailiff:

The next item of Public Business is the Draft Income Tax (Amendment of Law - Limited Liability Companies) (Jersey) Regulations, P.25, lodged by the Minister for Treasury and Resources, and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Income Tax (Amendment of Law - Limited Liability Companies) (Jersey) Regulations 202-. The States make these regulations under Articles 143 and 143A of the Income Tax (Jersey) Law 1961.

11.1 Senator I.J. Gorst (Assistant Minister for Treasury and Resources - rapporteur):

I rise with a smile because this was one of the items which in my mammoth request for moving we could have moved and it is connected with limited liability companies, but we might as well take it now because it does stand alone. It is in relation to tax matters and it is straightforward. These regulations amend the law where new types of legal entities become available and this, therefore, allows for the timely introduction of appropriate tax rules outside the normal rhythm of the Finance Law in these appropriate circumstances. These regulations ensure that where an L.L.C. (limited liability company) is formed the L.L.C. has certainty as to its obligation for the purpose of income tax, and the basis on which it and its members will be taxed in Jersey.

The Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? If no Member wishes to speak on the principles then I close the debate and ask the Greffier to open the voting. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The principles have been adopted.

POUR: 37		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				

Deputy S.J. Pinel (C)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Senator Moore, does your panel wish to call the matter in?

Senator K.F. Moore (Chair, Corporate Services Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

How do you wish to deal with the matter in Second Reading, Senator?

11.2 Senator I.J. Gorst:

En bloc if I may. The Articles in effect treat L.L.C.s in a very similar way to other such legal entities, for example limited liability partnerships, and it gives certainty to those members forming L.L.C.s and it comes into force at the time that the overarching law comes into force as well, so there is no period of uncertainty.

The Bailiff:

Is the matter seconded for Second Reading? **[Seconded]** Does any Member wish to speak in Second Reading? If no Member wishes to speak in Second Reading then I close the debate, call upon Members to return to their seats, and ask the Greffier to open the voting. If Members have had the opportunity of casting their votes I ask the Greffier to close the voting. The Articles have been adopted in Second Reading.

POUR: 38		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.Y. Mézec				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				

Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Do you move the matter in Third Reading?

Senator I.J. Gorst:

If I may, thank you.

The Bailiff:

Is it seconded for Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading I close the debate and invite Members to return to their seats and ask the Greffier to open the voting. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The regulations have been adopted in Third Reading.

POUR: 39		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				

Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

12. Draft COVID-19 (Enabling Provisions) (Amendment No. 4) (Jersey) Law 202-(P.27/2022)

The Bailiff:

The next item of Public Business is the Draft COVID-19 (Enabling Provisions) (Amendment No. 4) (Jersey) Law, P.27, lodged by the Minister for Health and Social Services. The main responder will be the chair of the Health and Social Services Scrutiny Panel. I ask the Greffier to read the citation.

The Greffier of the States:

Draft COVID-19 (Enabling Provisions) (Amendment No. 4) (Jersey) Law 202-. A law to amend further the COVID-19 (Enabling Provisions) (Jersey) Law 2020.

12.1 The Deputy of St. Ouen (The Minister for Health and Social Services):

I do apologise, Sir. The Assembly is making good progress.

The Bailiff:

Well, up until now, Minister, yes. [Laughter]

The Deputy of St. Ouen:

This is the Enabling Provisions (Amendment) Law. It is 2 years since Jersey entered lockdown to tackle the spread of COVID-19 in the Island. In this time the pandemic has had an immense impact on the lives and livelihoods of every Islander, and most regrettably 116 Islanders have lost their lives, as a direct cause or in combination with other health conditions, from COVID-19. We have come a long way since the start of the pandemic as our protections against COVID-19 have improved and our understanding of the virus has developed. The continuing delivery of the vaccination programme and Islanders' willingness to be vaccinated and take sensible precautions while enjoying their freedoms means that we are in a very different place today with a resulting reduction in severe illness and less disruption to critical services. But it is the case that despite our strong progress the pandemic has not come to an end, it has not been declared to be ended, though it might be said we are in a post-emergency phase. There is the possibility of a further variant of COVID-19 that behaves differently, or a reduction in vaccination protection could change the situation, quickly causing us to be in a position where we must introduce new legislative measures to protect Islanders' health and services such as schools, hospital and care homes. This is a fragile balance, as illustrated by the recent emergence of the more transmissible BA.2 subvariant of Omicron and an increase in cases across the world, including in Jersey, coinciding with our de-escalation measures. This uncertainty and the resulting need to maintain vigilance are the rationale for maintaining some of the main COVID-related legislation, including this enabling law and the regulations we will debate in P.28 in the following debate. I am proposing that the enabling law will be extended from its current expiry date on 1st August to 16th December 2022. This is the law that gives the Assembly the power to make emergency legislation in relation to COVID-19 without the need for prior approval from the Privy Council. If we allowed the enabling law to expire, no new regulations or orders could be made after 1st August if required to control COVID-19. A new Council of Ministers would be elected in July which would mean that it is in a very difficult position faced with a threat relating to COVID if no new regulations or orders could be made after 1st August. Of course, that is some months away but it is necessary to extend the expiry date now because there is an in-built delay to any decision around any further extension of the enabling law. Where the Assembly votes on an extension to the law, although the amendment only comprises the substitution of one date for another, it must pass through the Privy Council process for Royal Assent because it is a law, and then passed back to the Island for registration in the Royal Court before it can take effect. So it is the case the Privy Council will be asked and will ultimately decide whether the power given to us should be extended. We cannot be certain of the time needed to take those steps through the Privy Council so it is prudent to act now, especially as we will be entering the preselection period in May and holding the general election in June. The extension of the enabling law will also enable the next Council of Ministers to review the need for legislation once the post-emergency strategy has had time to embed itself, and to form a better understanding of the data and to bring any potential changes to the Assembly. I recall the

debate last November when we last extended the law Members raised questions about the human rights implications of extending this enabling law. The law officers have confirmed that there are no human rights implications because this law itself does not have any effect on human rights. It simply enables the Assembly, by regulations, to make any provision that may be necessary or expedient to respond to COVID-19. For this reason the rights and obligations of Islanders will only be affected to the extent that this is provided for in regulations which we are to debate in the following debate. It will continue to be the case, however, when exercising the regulation-making power that the Assembly will be bound by the Human Rights (Jersey) Law 2000. If there is a need to bring forward regulations it will remain important to consider the human rights implications of our actions.

[16:00]

There are also no financial implications arising from adopting the enabling law itself. The introduction of regulations does of course have a financial impact. When introducing any public health measures we have been mindful of their broader social and economic costs and this will continue should it be necessary to reintroduce regulations in the future as a last resort. As we enter the new post-emergency phase of the pandemic and start learning to live with COVID-19 it is important that our response remains proportionate. We do not wish to impose legal restrictions on Islanders without a valid reason for doing so, but with infection levels remaining high and COVID-19 cases increasing in many jurisdictions as legal requirements have been removed, we must remain cautious about Jersey's position. By extending the enabling law to December 2022, and if the subordinate legislation is extended to September in the next debate, we can ensure that the next States Assembly and Council of Ministers are able to draw on the tools available to manage the continuing risks of the pandemic. I am drawing to a close but in the ensuing debate can I remind Members that this proposition is about extending the enabling law, it is not about individual regulations or the implications of them to Islanders' rights, for example isolation, controls at the border, care of vulnerable people. If Members do wish to address those individual issues that is a matter, I suggest, for the next debate. This debate is about our ability to make regulations when we are faced with a threat and the normal processes through the Privy Council would not afford sufficient time and flexibility, as has previously been agreed through the Privy Council. I propose the principles of the draft law.

The Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles?

Deputy R.J. Ward:

I just want to check a couple of things and this might be a question to the S.G. (Solicitor General) more than anything. These currently expire on 1st August and note that the Council of Ministers will be in place by 11th July, the elections would have taken place in this Assembly, whoever that may be. So, there is time for a new Council of Ministers between 11th July and 1st August and they will have these powers. My question is whether we need to extend it until December, and I would ask that the S.G. that if they did expire on 1st August what would be the process if they were needed again because we quite rapidly instigated these powers when they were needed with the first COVID outbreak because I have serious concerns about extending powers to a new Assembly, when we do not know who they are, to enable rules on our Island that limit people's movement and freedoms and abilities to do certain things when we do not know who those people will be. I understand the Minister's point, and I listened carefully to what he was saying, but in the back of my mind and perhaps it is just me, but I do have a concern about extending powers through a time of uncertainty when there will be a Council of Ministers in place that we will have certainty on - good, bad or indifferent - by 11th July because that is when it will be. Indeed, by 16th July all panels and chairs will be in place in the new Assembly, which is one of the good things I think about the new Assembly; it will be quicker. So, I do not know about supporting these enabling provisions extension in this

way. Perhaps if it was an extra month until the end of September I would have been happier but December is a long time and takes us into a winter period with distinct powers without involving the Privy Council for the new Assembly. I think what I vocalised there are my concerns. I do not know if I have the answers but I do have some questions as to what will happen if these do expire and how long it would take to reinstate something if it was needed. I suppose the question I am asking is: do we have to extend these or could we, as necessary, instigate powers like that again rapidly? Does that make sense?

The Bailiff:

In other words, if there were no such powers in existence how long would it take a new Council of Ministers to bring these kind of enabling provisions into effect; that is the essence of the question.

Deputy R.J. Ward:

Particularly given the fact that they would still have those powers in for around 3 weeks by the time that the Council of Ministers were installed.

The Bailiff:

I suppose the question boils down to: can you do it in 3 weeks?

Deputy R.J. Ward:

Partly and if not, how long would it take.

The Bailiff:

Do you feel yourself in a position to answer that, Mr. Solicitor?

The Solicitor General:

Only from experience in the last 2 years in dealing with COVID legislation. No, it cannot be done in 3 weeks. From a proposition being adopted to enact legislation in this Assembly, my memory in the last 2 years has been that one waits something in the order of 3 months and more to get Royal Assent through the Privy Council. If this law is allowed to expire on 1st August one would have the job then of getting a proposition before this Assembly, having it voted on and passed, and then having to seek Royal Assent through the Privy Council. So, it is a lengthy process.

The Bailiff:

Do you have a further question?

Deputy R.J. Ward:

Because we are not in the same place as we were at the beginning of COVID because we have been through it before and the law is here, it has been drafted, everything is drafted and ready to go, so to speak, and we know what we are meant to do. The framework has been set up and would that not enable the process a little and are we not talking about a different place, I suppose; that is the comparison I am considering.

The Solicitor General:

I do not think I can speak for the next Assembly as to what form the legislation should take. I am afraid I cannot really answer that question other than to say with some certainty that 3 weeks would be an unrealistic timeframe.

Senator S.Y. Mézec:

This is to follow up and ask a further question of the Solicitor General because I am slightly surprised by that answer. Is the Solicitor General saying that if this Assembly declined to accept this now then once a new Council of Ministers is installed in that first week in July, if that new Council of Ministers

determined that this provision, which we already have drafted and could be copied and pasted, it could not ask for an extraordinary sitting of the Assembly in that second week or third week of July to approve this and have it come into force?

The Solicitor General:

There are a number of hypotheticals, which I am not altogether sure it is my job to advise upon. The fact is that even if you had an emergency session of the Assembly and even if the new Council of Ministers decided to simply cut and paste the existing enabling law text into a new proposition one would still have to wait for Royal Assent in the Privy Council, and that will be a job taking some months.

12.1.1 Deputy G.C. Guida:

A couple of things very quickly, the first one: I found it very odd that Deputy Ward questioned the next Assembly because if there is only one thing we know about it, that it is going to be democratically elected and that it will be running the Island. So, to question whether we are giving it too much power here is a very weird question. The next Assembly is going to run the Island because they will have been democratically elected by the people. This is not something that is in question. We will have to trust them whether we want it or not. We will have to trust them with all sorts of things, including this law. I would just like to repeat one last time, this is not about the Assembly, this is about a Royal Assent. This is because it takes between 3 and 6 months to get Royal Assent and that means that we will be, without this law, for at least 3 months just while we are changing Government. This means that if anything needs to be done urgently it will not. In fact, I may be able to scare this Assembly a little bit more. The only way to do something would be to declare an emergency and have the Emergencies Council take action. So, would we rather have the Emergencies Council take action or this Assembly vote regulations as a majority according to this?

12.1.2 Deputy S.M. Wickenden:

When we discussed this at the Council of Ministers I know we were very cognitive of the arguments that were made last time in the previous debate about expending these powers and I think it is right to bring it to this Assembly so that they can make the decision. As many will be running for re-election, they have to judge the risks on whether they feel that we are in a place in the pandemic where we do not need them anymore, that the waiting time is the risk that they will take so that these are not continued. I think it is right that it is here today, that we debate it and then it is a choice of this Assembly where it goes forward. I was going to make the same comments as Deputy Guida but he made them well so I will leave it there.

12.1.3 Deputy R. Labey of St. Helier:

Just on those dates, the schedule in July, the Assembly does meet from 11th July to elect Ministers and Scrutiny chairs and panel chairs, which will probably take between 3, 4, 5 days of that week. That takes us to 15th July by which time the new Council of Ministers should be constituted and Scrutiny chairs in place. Then there is one further meeting on Tuesday, 19th July, for all the members of the panels and committees, just so that we are clear.

12.1.4 Deputy M. Tadier:

I am aware that this is just one part of a package of laws that are coming forward and I do think that Deputy Ward is on to something. I would like to open the debate up slightly. I have just sent a tweet saying can we open the Overton windows please because it is getting quite stuffy in here. What we have seen I think in ... someone is starting to chuckle, someone got the reference. My concern in all of this is that how quickly we forget that we are dealing with emergency powers here. We put in emergency powers that severely restricted the public's ability to go about their daily business for what is going on a period of 2½ years now. I am not saying that is right or wrong, I think the judgement was made at the time based on the science. We are now at a completely different position

where effectively - and I will no doubt get shot down for saying this, and you will excuse me if there is some cognitive dissonance when it comes to the COVID response - at the end of COVID because the Government response at least is go back to business as usual and what happened is that a lot of people who had avoided COVID successfully for 2 years all got it straightaway and you realise, not very nice, is it, if you got some or all of the symptoms? But you get through it and I am sure there are others for whom it would be very serious if they did get it, and they live as if they have been going through COVID, especially if you have an autoimmune problem, whatever it is. They were doing this already before COVID. They were wearing masks, they were taking precautions, they were staying at home.

[16:15]

We are talking now about extending emergency powers into the next Assembly and to the end of the year when effectively Governments ... I do not know what the English expression is but in French you say *baisser les bras*, which means you kind of put your arms down and you give up hope and you are at the end of it because you have taken the strain. I was very sceptical about some of the impositions that we put in, in the first place. If we think back to what we did, we were telling people 2 years ago in 2019, 2020, I think it was, who did not have COVID but that came into contact with somebody that they had to stay at home for 14 days and they were not even allowed to go out of their own house into their own gardens. Then we got to the point after that where we said even if you do have COVID you can go out for 2 hours a day. It was on the basis of these laws that we passed, which we are now extending and for me ... and I talk about the Overton window because in the past, and I am not a radical libertarian incidentally. I consider myself as somebody who looks at Government power and always questions it and asks for the power to be justified, especially when it infringes on civil and individual liberties. In the past you would have had lots of that debate going on from people on the left, right, who considered themselves to espouse libertarian views. Now we do not get any debate at all. The Overton window has shrunk to the point where even if you suggest, ... and I am not a COVID denier incidentally, I have had it, I have had my 3 jabs, did not do much good to me, but I still had my 3 jabs. We will see, will we not? We will see what the truth is. It is not like any other disease where you normally have your injections and you are okay. It is a different type of illness apparently. The truth is we do not know if the jabs were effective and I could have not had them and I might have been all right. We do not know these points. But we do not make the basis of extending these emergency powers now at the end when we are giving all these mixed messages to the public. For my part, I will not be supporting this one or the next one.

12.1.5 Deputy K.G. Pamplin:

I rise as chair of Health and Social Security Scrutiny Panel who has over the last 2 years scrutinised the whole matter quite heavily and the Minister, when bringing forward those emergency regulations, and I want to cast Members minds back to 2 years ago when we all had to scramble up to Fort Regent with the reality in front of us that we did not have the Public Health Law requirements needed to protect our Islanders when we were dealing with an unprecedented pandemic on our doorstep in real time in quick time. We all had to very quickly grapple with legislation overnight in 24 hours, and we did that over a period of weeks at a time when we did not know what we could potentially be dealing with. This has always been a public health emergency and what I mean by that, is it is about protecting the livelihood of others while also taking those precautions for yourself and your direct loved ones. As the previous speaker spoke, 2 years later we do not have the full picture of this virus but we do have a better one and we are now dealing with the second variant of the Omicron variant that we only debated what we would be doing in December. It is clear by the science and the latest technical reading that I read this morning that this Omicron variant is binding to people's cells differently to the first variant that we were dealing with 2 years ago, therefore we still have a duty and a right to ensure that those people that would come into contact with this variant would get the same sort of symptoms and struggles as if they did 2 years ago and we do not have the data yet about

the efficacy rate of the vaccinations and how long they last. Therefore, as we go through correctly, the right procedure currently to ensure that those vulnerable members of our society are getting protected now it is the right thing to do over the next few months as we see, because remember, Members, that we always have been weeks behind the current waves that are going around the world. So it is our duty, I believe, that because of the timing, and this is a technical point, which I think the Minister made at the beginning of his speech, due to the upcoming elections and then the time periods to vote through, from recollection, 4 years ago, it is a time-consuming case, the Council of Ministers have to get together, then suddenly there is a break for the summer holiday. Surely it makes more reassurance that this enabling law can carry through so therefore what we get to in the next debate we can go forward with the regulations that are required and needed, if they are, if the Island does struggle, and I do not think it will, but I think it is our duty and responsibility. I hope that was helpful to Members of where we are currently in the pandemic. We are obviously in a much better place but we have to remember that if we have not learnt anything from acting quickly and take our responsibilities, then we have learnt nothing the last 2 years. So, I would just urge Members that we support this enabling law, it makes common sense, it gives a good sounding platform for whoever is here after the election to get things right and to keep the good work that is going forward. That is all I wish to say.

Deputy R.J. Ward:

May I ask another question of the S.G.?

The Bailiff:

Yes.

Deputy R.J. Ward:

My other questions were genuine questions because I was unsure about something.

The Bailiff:

Are you about to say this one is not?

Deputy R.J. Ward:

To put this one in context, Sir. This is an enabling law, and I do not know how to word this, but am I right in thinking that this is simply a law without any real action until we look at the regulations and it is the regulations that are enacted? That this law is just, if you like, the foundation for any regulation. Subsequently we could ... I may have had my debate early, so to speak, which I recognise, because it is the regulations I am concerned about. So, the enabling law existing in the background does not necessarily mean that anything happens but it can enable regulations but we could still talk about those regulations in a new Assembly, is that correct in thinking that? Have I got a better interpretation there?

The Solicitor General:

That is entirely right. It is an enabling law and that is all it is. It does not create any restrictions on civil liberties at all. All it does is give the Assembly power to make regulations to address COVID problems. I stress “regulations by the Assembly”. The ability of the decision of whether or not to make regulations under the enabling law is exclusively within the discretion of this Assembly. The enabling law, as the Minister for Health and Social Services said to start with, does not raise any human rights issues at all. It is simply a tool that you can either choose to use as an Assembly or not use. It is a matter entirely for you. The regulations that you may make under it or pursuant to it, using the power it gives you, that would potentially raise human rights considerations in due course depending on what form those regulations took. I hope that helps.

Deputy R.J. Ward:

It does. Can I just ask - sorry I know Members get tired when people ask a lot of questions but I do have to ask - so therefore those regulations would need to come to the Assembly to be enacted or can the Minister enact those regulations without the Assembly, which is because of the enabling law? That is the link between the 2?

The Solicitor General:

No, the Minister cannot unilaterally enact regulations. Only the Assembly can enact regulations and the enabling law makes that very clear if it needed to be, which in my view it did not. It does not need to be made clear. Article 2 power to make regulations paragraph (1): “The States may by regulations make such provision as appear to them to be necessary or expedient as a direct or indirect result of the outbreak of COVID in Jersey or the aftermath of that outbreak.” It is only this Assembly that can make regulations under the law.

Deputy R.J. Ward:

Thank you, that is very helpful.

12.1.6 Deputy J.H. Young:

I will be very brief. As a member of the community in the over-75 groups, in the vulnerable group, one who will not be in the Assembly - incidentally I have had my fourth jab and I am grateful for it - wherein exactly as Deputy Pamplin said, nobody can predict where this is going to go. I absolutely want this future Assembly to have in powers the ability to deal with this pandemic if it requires it. It has just been said, there is nothing in here that the States will not get a chance to agree or the next States will not, if it is necessary. We all hope and pray that it will not be. But I think it is absolutely not prudent not to pass this today.

12.1.7 Senator L.J. Farnham:

I just wanted to briefly respond to a point that Deputy Tadier made, and I think if I heard him correctly, he said that there was no proof that the jabs were effective. He is not here. But I just wanted to put on record, that vaccines do significantly reduce the risk of COVID-19, including the risk of severe illness and death, [Approval] among people who are fully vaccinated. In addition, data from clinical trials, evidence from real world vaccination programmes, an effectiveness study show that COVID-19 vaccines help protect against COVID-19 infections whether one is symptomatic or asymptomatic. For the avoidance of doubt, I just wanted to have that placed on the record in response to the Deputy’s comments.

12.1.8 Senator T.A. Vallois:

I initially came into this debate considering voting against because of some of the concerns that have been raised but I just want to add to the debate in terms of the fact that after the elections the amount of work that the Ministerial team are going to have to be faced with, with regards to Government Plans and Common Strategic Policies, is going to be time-consuming as it is, in terms of bringing forward the very much needed and money to pay for things but also the strategic direction of the next Government. To enable having this legislation in place and enabling a form of regulations to take place, which I believe is the next debate, will allow them a little bit of breathing space to consider and reflect on how to take things forward, considering the circumstances we find ourselves in as an Island. I think we have to respect the fact and bear in mind that none of us have experienced a pandemic such as this until it came upon us 2 years ago. I have changed my mind and I will be supporting the Minister in terms of extending the legislation and wish the next team in Ministerial Government and the next States Assembly all the good wishes with dealing with this particular issue.

12.1.9 The Connétable of St. Ouen:

I just want to remind the Assembly of a few statistics from today's published figures. If anyone thinks this pandemic is over I think we are probably kidding ourselves. We still have 2,056 cases in the Island and we had 246 new cases yesterday, and we still have 6 people in hospital. Yes, the virus today, the current variant, is much more infectious and much less virulent, and that is the prediction of the way it will go, but I have to say having, like everyone else, lived through this pandemic, the one thing I learnt from it is we always expect the unexpected. This virus has proved us right in that respect, all the way through. In my mind, it is entirely sensible that we keep this legislation. Let us sincerely hope that, especially as we are now enjoying a greater level of freedom than we enjoyed 2 years ago, we do not have to use it. But I think it will be foolish for us to let this slip and then have to go through, as the Solicitor General has pointed out, a lengthy process to get it back - or at least the new Assembly would have to go through a lengthy process to get this back - because we became complacent about it. I think that would be a very big mistake. Let us keep our guard up. As I said, this virus has proved us wrong on many occasions and just when we thought we were over the worst of it, it has come back again and it still has the ability, because it is so infectious, to come back again in a more virulent form and be more dangerous. So let us not assume that we are over the worst. It would be nice to think that we are and I am sure we probably are. But let us not take our guard down at the moment and let us pass this amending legislation and be sensible in that respect so that the next Assembly are not faced with an additional problem as well as having perhaps to deal with - I know it may sound unlikely - a re-increase of this pandemic again. I will be supporting this.

12.1.10 The Connétable of St. John:

Last time we debated this subject I spoke against extending the powers but I would echo the words of Senator Vallois that we have just heard. We have other issues around us at this time. It is not just COVID that is in front of us and those other issues could go either way. We could find our new Council of Ministers dealing with some horrendous challenges - let us hope that is not the case - but the Solicitor General has given me confidence and I will be supporting the Minister on this occasion.

[16:30]

12.1.11 Senator S.Y. Mézec:

The Minister for Health and Social Services will remember the discussions he and I had at the original time where it was proposed that legislation was passed to give extra powers to deal with the COVID response, and he will remember how unhappy I was at the approach. When I say "unhappy", I mean I just did not like it. Not that I was not prepared to put up with it, which of course I did, and we had discussions about safeguards in that process making sure that we were not giving a licence to potential future Governments going further with this sort of thing and that we do have an end in sight where we return to our normal democratic processes for dealing with this sort of thing. I, like Senator Vallois, had come into this debate presuming that I would vote against this. The main reason for that was because I believed that with the election coming and the installation of a new Government to come shortly afterwards that it was right to leave that to the next Government to decide afresh in July whether it was worth extending these because I really do not like any sort of idea that this should go on for any longer than is necessary. I want to get back to our normal democratic processes as soon as is possible. I have changed my mind and, at this point, I am likely to vote in favour of this. It was asking the Solicitor General questions on this and understanding a bit better what the process would be if something happened, something unpredictable in the next few months, that would mean that these powers became necessary again, that it would be very difficult to do that, not just in terms of the timeframe but if we to try to expedite that, that would be a very difficult process as well. But that I think does not mean that we have to use those powers in the meantime, and there is a serious debate to be had on the next item on the agenda as to whether we are happy for those to continue on just now, when we are supposedly meant to be returning to normality. At the start it was much easier to justify the changes in process and giving extra powers because we were facing an unpredictable virus and we had no vaccine, we had not antiviral drugs to mitigate its impact. That situation today is very

different. The vaccine is extremely effective, we have seen the statistics that show that, and of course we have antiviral drugs as well for those who may still get COVID and end up suffering from it. So we are in a different place today than we were then, which means we have to think much more carefully about whether these powers are necessary. I am hoping that the day comes where they are not necessary as soon as possible. The only reason that I am now inclined to support it is I think because of that election timetable not being what I initially thought it was when I had entered this debate, where I thought it might be justifiable to say no at this point but leave it to the next Government. But that does not mean that my support for the next item on the agenda is assured. There should be a debate on that because it is not a good thing that these powers are being extended. It is not something to celebrate and it is not something to continue on as normal, and we still have a strong role to play in holding Government to account and making sure that it is defending civil liberties and that it is acting proportionately, and that just because we have given them the enabling power does not mean that they get carte blanche after that to use the powers however they want.

12.1.12 Deputy S.G. Luce of St. Martin:

I too am grateful to the Solicitor for his clear advice on 2 issues. The first one is that if we let this enabling law lapse it will take 3 months to get it back from the Privy Council, and the second one is that the enabling law is exactly that, it is an enabling law and does nothing else on its own without the regulations to come back to this Assembly. So, I am very content and I do not want to put the next Assembly at risk of not being able to act should they need to, and I will be voting for this.

The Bailiff:

Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles then I close the debate and call upon the Minister to respond.

12.1.13 The Deputy of St. Ouen:

I thank all those Members who have spoken and I thank particularly the Solicitor General for his very clear advice and assistance to us. I thank those Members who have said that they have got it, they have changed their minds because they understand the risks involved for the moment; that is Senator Vallois, the Constable of St. John, Senator Mézec. I hope we have by this discussion come to an understanding that it would be irresponsible of us to leave the next Government and States Assembly in the lurch when they are not thanking us for having to sit through hastily convened emergency sittings in July immediately after they have come into power, taken their seats, trying to get to grips, to an understanding of how we as a previous Assembly have dealt with COVID, and deciding what might they have to do in the face of a threat which is manifesting itself at that time. So I hope we are not going to be in a position to let everything lapse now and say: "That is for the next Assembly in the few weeks at the end of July" when we know that they are not going to get Privy Council approval so they will go into August and September at risk without legislation until they can get something approved by the Privy Council, which would then only be an enabling law, which would mean they would have to sit again to pass specific regulations. So this is to assist. It is only an enabling law, as has been said, there are no powers given to Ministers, it is a power given to this Assembly to renew the safeguards and the protections we have in place which we will come on to in the next debate. I would just like to reply to Deputy Tadier, though I thank Senator Farnham for his words. This is not the end of COVID, as Deputy Tadier might have suggested. I do not think there will be an end of COVID; COVID is with us and the whole world. We are going to be living with COVID. Deputy Tadier said he did not know whether his jabs were effective. Well I can tell the Deputy his 3 jabs, each time he has attended on those 3 occasions at the vaccination centre, our wonderful vaccination centre at Fort Regent - and I thank the staff for attending to him and to us - and they [**Approbation**] have delivered immunity to him which has enabled his body to fight off the worst effects of COVID. If he had not had those 3 doses, Deputy Tadier would have been at a far greater risk of mortality, would have been at a far greater risk of serious disease, but we have him here because he has avoided

those risks because he has chosen to be vaccinated. I thank him for that and I hope he will acknowledge the benefits that vaccination gives us, and perhaps I might ask any officers who are listening to circulate to Members the link to a public health report that was brought out at the beginning of the year or just before Christmas. This is Jersey data reflecting on the numbers hospitalised in the last 6 months of the year which showed that persons who were unvaccinated or only had a single vaccination were 13 times more likely to be hospitalised than persons who were fully vaccinated. That shows the benefits of vaccination in reducing the effect of serious disease and mortality. I agree with Senator Mézec in so many respects that we will need as soon as possible to bring an end to this way of doing things. The answer in fact is to enact a comprehensive Public Health Law with all appropriate safeguards and reviews in it, which is being drafted, will be brought to the next Assembly. That is how other jurisdictions operate and that is what we need instead of a very short law based following a cholera epidemic in town in 1934; that is the date of our last Public Health Law, which is written in French and is just inadequate for the threats we have had to deal with, which is why we have needed this enabling law. But I hope we do not need to proceed any longer than necessary. But this enabling law does not mean we have to exercise powers but it gives the future States Assembly the ability to manage COVID faced with an increased threat. It is still an unpredictable virus. There is a possibility that despite our good vaccination record a new virus may somehow evade a vaccine, not be as effective against the present vaccine, but we do not know. It might all just go swimmingly, but there is no need to take the risk. I would ask Members to adopt this extension and I call for the appel.

The Bailiff:

The appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The principles have been adopted.

POUR: 41		CONTRE: 3		ABSTAIN: 0
Senator L.J. Farnham		Senator I.J. Gorst		
Senator S.C. Ferguson		Connétable of St. Brelade		
Senator J.A.N. Le Fondré		Deputy M. Tadier (B)		
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				

Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Greffier of the States:

Those Members who voted contre were: Senator Gorst, the Constable of St. Brelade and Deputy Tadier.

The Bailiff:

Does your Scrutiny Panel, Deputy Le Hegarat, wish to call the matter in?

Deputy M.R. Le Hegarat (Chair, Health and Social Security Scrutiny Panel):

No, thank you. As chair of the panel I am fully supportive of the Minister.

The Bailiff:

Thank you very much. How do you wish to deal with the matter in Second Reading, Minister?

12.2 The Deputy of St. Ouen:

Very briefly, it is a simple amendment. If passed it will amend the law for the fourth time to extend it to 16th December 2022, after which no COVID-related provision can be made by regulations or orders under the law. I propose the law in Second Reading.

The Bailiff:

Is it seconded in Second Reading? **[Seconded]** Does any Member wish to speak in Second Reading? If no Member wishes to speak in Second Reading then I close the debate and I ask the Greffier to open the voting. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The Articles have been adopted in Second Reading.

POUR: 43		CONTRE: 2		ABSTAIN: 0
Senator L.J. Farnham		Senator I.J. Gorst		

Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Do you deal with the matter in Third Reading?

The Deputy of St. Ouen:

Yes, Sir, I propose the law in Third Reading and I thank Members for their support.

The Bailiff:

Is the matter seconded for Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak then I close the debate. The appel is called for. I invite Members to return to their seats and ask the Greffier to open the voting. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The law has been adopted in Third Reading.

POUR: 42		CONTRE: 3		ABSTAIN: 0
Senator L.J. Farnham		Senator I.J. Gorst		
Senator S.C. Ferguson		Connétable of St. Brelade		
Senator J.A.N. Le Fondré		Deputy M. Tadier (B)		
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				

Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

[16:45]

13. Draft COVID-19 (Amendments - Extensions to September 2022) (Jersey) Regulations 202- (P.28/2022)

The Bailiff:

The next item of Public Business is the Draft COVID-19 (Amendments - Extensions to September 2022) (Jersey) Regulations, P.28, lodged by the Minister for Health and Social Services. The main responder will be the chair of the Health and Social Services Scrutiny Panel. I ask the Greffier to read the citation.

The Greffier of the States:

Draft COVID-19 (Amendments - Extensions to September 2022) (Jersey) Regulations 202-. The States make these regulations under Article 2 of the COVID-19 (Enabling Provisions)(Jersey) Law 2020.

13.1 The Deputy of St. Ouen (The Minister for Health and Social Services):

It is in this debate that we can deal with the detailed regulations, as Senator Mézec has given us due notice that he wishes to speak about, because they are the regulations made under the enabling law that we have just extended. If these regulations are passed they will extend some of the COVID-19 provisions, the various pieces of legislation, but of course we will also - and I am pleased to say - be doing away with significant pieces of legislation which will be seared in my memory for a long time that we battled through in this Assembly. So, some are going, some the Government feels we need to retain, not necessarily use but retain as a safeguard in the event that there are those unpredictable threats of COVID that emerge. There are 11 pieces of legislation which we wish to extend and their provisions and the rationale for their extension have been set out and explained in the accompanying report to these regulations. They seek to extend each piece of those 11 legislative provisions from its current expiry date, which is 30th April, for a further 5 months only to 30th September 2022. So no longer than 30th September 2022 because I believe after that time any new Council of Ministers will know which regulations it may wish to continue with, if appropriate, and be in a position to come to a new Assembly with a proposition for extending or bringing new regulations. This is the fourth time we have sought to extend the legislation for a limited period to manage COVID-19 in the Island. We acknowledge the exceptional nature of these powers, which is why they are under the aegis of the Assembly. It is the Assembly that gives the Minister's powers and the Assembly that can withdraw those powers. Our objective is to remove legislation and relinquish powers when it is safe to do so based on the public health risk, because none of us who were involved in managing COVID - and I am sure all Members of this Assembly - we have no wish to retain restrictions on Islanders'

personal liberties for any longer than necessary. We have said we have found ourselves in a strong position due to the high uptake of vaccination and the seemingly reduced risk posed by the dominant Omicron variant. So, we have shifted our focus away from Government-led measures to a situation where Islanders take greater personal responsibility for managing their health and ensuring their actions minimise the risk of COVID-19 infection. It is because of that I believe, or indeed I am proposing, that several pieces of legislation will simply be allowed to expire on 30th April as was planned when we last debated an extension. That includes legislation relating to workplace restrictions, the power to close certain industries and venues such as gyms, restaurants, shops, retail; all that is going to go. Also, to provide contact tracing information; no longer necessary. Require customers and staff to wear a face covering while in indoor public spaces; I am not proposing that be renewed. We will do away as well with legislation on controlling gatherings. Remember you could not have more than 10 people in your house, you could not hold a party, problems if you wanted to hold a children's party, how many adults, how many children could you have. All that will go. Legislation on social distancing can also be removed. Remember when we said that you could not be within one metre of somebody unless you were living with them. We do not need any of that anymore, we rely on Islanders to take responsibility for managing their health and the risks of COVID. These have been some of the most restrictive measures we have implemented over the course of the pandemic and we are certain it is no longer proportionate or necessary to maintain those legal provisions in the context of our strategy of de-escalation. But as we have spoken about, while we may be in a new post-emergency phase, the pandemic is not over, so we must be prepared in case there is any deterioration in the situation, and this includes being able to draw on certain pieces of legislation which we should retain to manage the ongoing risks and prevent disruption to essential services such as in schools, the hospital and care homes. For example, we are proposing to retain the screening assessment and isolation regulations which allows us to enforce isolation on anyone as a public health measure, which is still currently in force and Members will know we have said that will continue to 30th April and thereafter we propose that it no longer be something that we use but we would still wish to retain that power should a risk emerge that needs that degree of control. If a new variant of concern were to emerge then it may be necessary to reintroduce also our safer travel policy at the border, assuming it emerges outside of Jersey, to provide us with time to deliver a further vaccine booster or take other action. I wish to remind Members that most of the legislation will remain suspended, even though on the statute books, and can only be reactivated by Ministerial Order should the COVID situation require us to do so. A Minister - which is usually the Minister for Health and Social Services - must be satisfied that doing so would be proportionate and necessary based on public health risk, and must take advice from the medical officer of health, as well as consult with the Council of Ministers. I can tell Members that there has been close consultation at all times with the medical officer of health with public health officials, extensive consultation throughout with Council of Ministers and C.A.M. (Competent Authorities Ministers), and I have also been grateful very often for advice from law officers on what may be proportionate and necessary at any given time. So, all these steps provide appropriate safeguards and oversight when taking the decision to enact orders. It has been over 2 years since the beginning of the pandemic. The context has changed significantly in those 2 years and it is now possible to remove many restrictions safely and allow Islanders' lives and livelihoods to return to normal. But at the same time it is important to retain some legislation which we could draw on quickly and which reflect the policy changes we might seek to introduce if necessary to manage ongoing risk from the pandemic. I hope, therefore, while I can understand the concerns people have about emergency legislation, nevertheless I hope Members will see that we have only exercised those when we have needed to and in line with advice, and remove them as soon as it is proportionate to do so. I hope that it will not be necessary to revive by order the regulations as we move through the summer, but it remains the case that we need to have protections should a threat emerge which we cannot foresee at the moment. I hope, therefore, these regulations which extend only certain of our legislation to 30th September, will receive the support of Members. I propose the principles.

The Greffier of the States (in the Chair):

Thank you very much. Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles?

Deputy R.J. Ward:

I have a particular issue with regulation 4. Should I wait for the regulations to come through?

The Greffier of the States (in the Chair):

That is normally the best time if you have a specific issue of detail.

13.1.1 Deputy R.J. Ward:

I do have a question regards all of the regulations. If they are extended, I think the Minister said that they are in the background was the phrase that was used, so can we assume that they are not being used at the moment but in the background and at what point will they be considered to be used? Because we do have quite high COVID cases at the moment. I think that is a question on principle.

The Greffier of the States (in the Chair):

Is that your contribution to the debate?

Deputy R.J. Ward:

Yes, that is, yes.

13.1.2 Senator T.A. Vallois:

Could I just ask the Minister to explain why he deemed 30th September as the appropriate deadline date for this particular extension. Also, I would like to hear from the Minister's experience of dealing with this particular pandemic in terms of how he envisages handing over any form of legacy report or learning as Minister for Health and Social Services in terms of dealing with the pandemic for the next Government, for the next States of Jersey Assembly, in order to assess and deal with these particular regulations.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles, then I will call on the Minister to reply.

13.1.3 The Deputy of St. Ouen:

Deputy Ward asked to what extent these regulations are used. The first one relates to screening assessments and isolation and that does provide for isolating individuals and requiring that isolation to be undertaken, and that is currently in force. The second regulation relates to emergency provisions relating to courts and I understand that allows the courts to sit in other venues and organise its business in a COVID-safe way. That is currently in effect and that power is available and is considered to be appropriate to meet any risk. The third regulation relates to the Royal Court Law, which I think relates to the election of a Jurat and conducting an election in a safe way without requiring everyone to crowd into the Royal Court, being a potential risk of transmission.

[17:00]

The fourth regulation I can understand why Deputy Ward is particularly concerned about. This relates to the Regulations of Care (Standards and Requirements) (Jersey) Regulations; this is about pressures in care homes or domiciliary care situations. This is extended at the request of the Minister for the Environment, or the proposal is it be extended at the request of the Minister who has responsibility for regulation of care. This allows the Jersey Care Commission, after examination of

circumstances, to provide a derogation of usual care standards because care homes can be affected, staff can be affected, and staff can be absent as a result of COVID and it would become difficult. So we would not want to close a care home, that would be a very last resort, and to move residents out. So after due assessment it is the case that the Care Commission agree a different way of working. I have seen how that works; it is a very measured, moderate approach. So typically I have seen that care homes might organise their routines in a daytime with certain periods. There is usually a busy morning period, there is a less busy afternoon period and a busy evening period, and it might be necessary to have a certain level of staff on at different levels, depending on the degree of work required. The Care Commission has assessed how that home could safely operate with one less member of staff in the afternoon, for example. So, the care homes will work their shifts to ensure that the busy periods are covered but they can safely dispense with one member of staff in the afternoon. Very often it is said that volunteers are on hand to help out with kitchen duties, for example, and so relieve staff in other respects. I have seen this worked out very carefully to ensure that our most vulnerable people are protected. I am sure the Minister for the Environment can speak to that also if he wishes. Article 5, the Wills and Succession Law just allows wills to be witnessed and certain other legal documents by the use of Teams or other visual means without persons having to attend together. Article 6 is COVID-signing of instruments; perhaps I was referring to signing of instruments regulations. I think they are related. Article 7, 8, 9, 10 and 11 are all brought forward at the request of the Minister for Home Affairs and relate to the conducting of marriages and civil partnerships, the registration of births, et cetera, because our small team of people who carry out those functions are clearly very essential to the Island. If they were to contract COVID then we would be in difficulty, so there are restrictions on attendance at the public, for example, and there are variations - or there can be variations if these regulations were reintroduced - to the normal requirements around the procedures for marriage and civil partnerships. Again, I am sure the Minister for Home Affairs could speak to those if he wished. It is simply that I am bringing forward these regulations which fall under 3 Ministers in one set of regulations. I hope that might help Deputy Ward. To Deputy Vallois, why 30th September: it was our wish not to extend them as present Ministers any longer than it might be necessary for a new Council of Ministers to understand, to work out exactly what it needed and wished to do in relation to COVID, and bring its own regulations or whatever measures it wished to the Assembly. How I might hand over to another Minister is an interesting question. There is no formalised process that I understand in any sort of regulation, but I would be very willing to meet with the next Minister and give whatever assistance I can. But I make that offer; it is for the next Minister to take it up or not. I am not particularly precious about it. I will consult perhaps with officers as to what essential notes might need to be left, but certainly we have the teams in public health that are not affected by the election, thank goodness. They will continue their work and they will be in a good position to give clear, consistent advice to new Ministers. Thank you, I propose the principles.

The Greffier of the States (in the Chair):

Thank you. Are you calling for the *appel*, Minister?

The Deputy of St. Ouen:

Yes, if I may.

The Greffier of the States (in the Chair):

The *appel* has been called for. If Members return to their seats and I ask the Greffier to open the voting; those online to vote using the chat. If all Members have had the opportunity to cast their votes I will ask the Greffier to close the voting. The principles have been adopted.

POUR: 41		CONTRE: 2		ABSTAIN: 0
Senator L.J. Farnham		Connétable of St. Brelade		

Senator S.C. Ferguson		Deputy I. Gardiner (H)		
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

The Greffier of the States (in the Chair):

Deputy Le Hegarat, does your panel wish to call it in?

Deputy M.R. Le Hegarat (Chair, Health and Social Security Scrutiny Panel):

No, thank you.

The Greffier of the States (in the Chair):

Minister, there are 12 regulations, how do you want to deal with it?

13.2 The Deputy of St. Ouen:

Well, all 12 are the same, they simply extend the expiry date of the provisions in the items listed in the 12 sections from 30th April to the end of 30th September this year. Unlike previous extensions these regulations do not extend several other COVID provisions that are due to expire at 30th April. I mentioned them when I was proposing the principles, so they will be gone on the bonfire from 30th April. But those 11 pieces we wish to extend to 30th September and I seek Members support and propose the regulations en bloc and I will try and address any questions.

The Greffier of the States (in the Chair):

Are the regulations seconded? [Seconded]

13.2.1 Deputy R.J. Ward:

First of all, I was going to ask the Minister if he would take Regulation 4 separately for some specific reason. The only issue I have here is Regulation 4, Regulations of Care (Standards and Requirements), because when you look at the link to the Regulations of Care as amended, part 3A(2), it does say: “Where this paragraph applies, the commission must suspend the imposition of any relevant condition in relation to that registered provider for a period of one month if the commission determines, on the basis of information supplied by the registered provider, that it is proportionate and reasonable to do so.” That is referring to regulation due to an outbreak of COVID-19. I have always had concerns about that regulation in terms of care homes, and also whether it extends to children’s homes or whatever the correct and most appropriate phrase is for places where children live and should be cared for, because we do have some high COVID numbers and I think there is a very fine line between COVID causing problems with staffing and general staffing problems anyway in their care homes. I think that regulation can easily have that line blurred and we could lose regulation of care home and to suspend for a period of one month the relevant conditions that I think are so important if we are going to have proper regulation in our care homes and safety in our care homes. So, I cannot support Regulation 4 being continued because I would have liked to have seen it suspended. There was a situation before where it was suspended in the background, still existed but suspended, and I thought that would have been a much more sensible approach to have. That is my concern over that so I wonder if he would take it separately. I do not know what other Members think about that but I would ask him if he would do that.

The Greffier of the States (in the Chair):

If I can assist the Assembly, the regulations have been proposed *en bloc* which means there will be one debate, but any Member can request and be entitled to a separate vote on individual regulation. So, if you want a separate vote on Regulation 4 that is fine and that can be organised.

Deputy R.J. Ward:

Yes, I would like that.

13.2.2 Deputy J.A. Martin:

I did want to speak more generally, and I just think the regulations and the ones that have been, let us say, extended to the end of September are very, very sensible. I absolutely got Deputy Ward’s concern about this regulation but if he thinks back and over what has been happening, especially in care homes, and we heard the Minister explain this just gives a little bit of flexibility. Remember when you could not go and visit your elderly relative? The Minister explained that this just gives a little bit of flexibility to when you may not put an extra member of staff on that might not need to be

there in the afternoon because people are now hopefully being able to go out like they used to with their relative. But the isolation one as well, I mean, the isolation in law also relates to me because I pay an isolation benefit and if you are not isolating in law why would I carry on doing that. So, I just think in general the ones that have been picked out ... and I know the Minister for Health and Social Services, the Minister for the Environment and the Minister for Home Affairs are all overseeing these regulations, have literally thought: "What is the bare minimum we need to extend to September?" I say this as probably a general term, that I really hope - and Senator Vallois said it ... and if you have never been prepared for, and this is after all these years and my first time as a Minister, the things that are put to you when you come in as a Minister and you have got to decide. We are having a debate next time on changing the whole system in the first 6 months, going backwards, this is a Back-Bencher's ... it is a Minister but it has been brought as the Deputy of St. Brelade, Deputy Young. So, I know we literally are talking to different regulations but I have looked at the ones that have been extended. I think they are sensible, it is to the end of September. If you believe Facebook you will have 49 new Members in here having to make some really, really tough decisions very quickly and we do not even know if there is a set up ... the retiring Minister for Health and Social Services - because he has announced he is retiring - will hand over to the new Minister for Health and Social Services but he has kindly said he will be there if anyone needs assistance.

[17:15]

But I think this is utterly sensible, it is a few regulations, it is to the end of September, let us get this through. It is an insurance policy, nobody is forcing ... they are there, they can carry on but they are only there if they are needed. That is my 2 pence, thank you. I am supporting all the regulations but I absolutely understand why Deputy Ward or anyone else can ask for a regulation to be voted on separately.

Deputy R.J. Ward:

Can I ask for a clarification from that speech?

The Greffier of the States (in the Chair):

Yes, Deputy.

Deputy R.J. Ward:

Clarification that the understanding that part 3A of the Regulation of Care part 2 is not just about visitors to a care home, it is about suspension of things like inspection and the vetting of staff and so on, so does the Minister understand that is my concern. It is not about the visitors to care homes; that is what that part of the regulation is about. I think it is really important to have that clarification.

The Greffier of the States (in the Chair):

Thank you, Deputy. Deputy Martin, did you want to respond to that?

Deputy J.A. Martin:

If he is asking me for a clarification I am saying it does cover that but this has been in place. If it was never going to be suitable it is not going to be suitable for the next few months. But it does cover what I was talking about, about being flexible in the care home with the staff that work in there. It either was suitable or it never was suitable. We are talking a few months extension.

13.2.3 Deputy J.H. Young:

I think what I will try is I will try and help the Assembly with regulation 4 and, as the Minister for Health and Social Services said, try and give a little bit more information. Just to remind Members that we did adopt this facility back in 2018 when we were first hit with COVID before we had vaccines or anything but obviously the issue was, what do we do about the regulation of care homes? Obviously, the key thing, it was not an exemption from registration full stop, it was the particular

requirements regarding minimum staffing levels. Obviously, what we have in place now, I think, a Jersey Care Commission, which has been working very successfully for a number of years. There is a constant flow of inspections and reports, they are all in public on the public website and they are very detailed. These assessments are not just a kind of a box-ticking exercise, they are very detailed. When it goes into the staffing requirements it talks about the number of residents, the number of nursing care where there is that provision, overnight care and so on, and the care for people and looking after in terms of feeding and washing and cleaning and all is set down in great detail. It is not a question of just a one-size-fits-all. The Jersey Care Commission have asked, they believe it is necessary to still have this arrangement in place whereby we do have the facility with safeguards, which I will talk about in a minute, if you like, to accept that on a particular occasion this might have to be invoked. We did extend the regulations again and of course Members will know reading the report that a regulation requires an order to put it into effect and it only deals with very narrow particular points of registration. The order was renewed in December, for a very good reason in December - this is December 2021 - because it would remind us all we did have quite an increase in numbers during that period. During that period, I think, my recall and I have just had confirmation on the email, that we had 3 reports. The safeguard is that when the commission invoked that exception, in other words, they have to report back to myself, as Minister for the Environment and to the Minister for Health and Social Services and on every occasion they have set out in those reports in great detail what the shortcoming is and how they have been able to cover it. I praise the people running care homes because they have been able to achieve cover by transferring in people doing extra hours and so on and people taking on additional roles. Indeed, they have allocated staff from one care home to another and indeed there have been occasions, I think, when the Minister for Health and Social Services has provided some supporting resource. I really think there is a system to manage this. I sent the email, so I can recall we had 3 reports over Christmas and I was satisfied from what I saw and, those of you who know, they are a very, very geared-up outfit, the Jersey Care Commission, on their reports that I believed it was acceptable and so the Minister for Health and Social Services and I agreed on that. I have just had new information that there was one further that has happened last Thursday. I was not aware of that and I think it shows why we need this. We are not out of COVID yet. I have not seen the details of that report but I have just asked for details there because that has only just happened. I think Deputy Ward also asked about children's homes. I think I am going to have to ask the Attorney General to clarify because this is a very complicated business this regulation. There are some issues at the moment concurrently, which are children's homes, I think they fall under a different category because they are separate services. Of course, at the moment I have to say - and I need to report this - it has gone further than notification, there are notices been served in respect of one children's home; that is an improvement notice. It is on there, it has been published and that, I think, has got its staffing issues. But as far as what I would call residential care homes and nursing homes, I think that situation is under management. I think what I will do is I will arrange for Members to have a more detailed report of those again of the 4 occasions that has had to be used. I think this is important because look at it from the point of view of the care providers, they are required in law and if they do not comply then basically they are offences. That cannot be right because the end result could be - I am not an expert on this - that the care home closes. Where does that leave us then when we have got 99 per cent occupancy of our care homes? Thankfully, I think, everybody is really doing their best to try and maintain standards as much as possible. I think I will stop there and I do not know if I can be asked for clarification in my speech but, there we are, I will do my best.

Deputy K.F. Morel:

A point of clarification. It was just the Minister said that he signed the order in December, I was just wondering how long that order was in force for until it expires.

Deputy J.H. Young:

My understanding is having signed the order it stays in force until it is cancelled. If Regulation 4 is passed then there is a continued vires for the order until 30th September. Perhaps I can ask the Attorney General for what happens on 30th December to that order but that order was made, I think, mid-December 2021.

Deputy R.J. Ward:

Clarification?

The Greffier of the States (in the Chair):

Potentially but I also hear a request for advice from the Solicitor General, which might be more helpful. Solicitor General, do you think you could deal with that point?

The Solicitor General:

I was not sure if there were not 2 questions that I was asked. The Regulation of Care (Standards and Requirement) Regulations, do they apply to children's homes? They appear to. Does the special exception for COVID, if a Ministerial Order is made, which allows care providers to dispense with certain requirements under law, does that apply to children's homes? It would appear to. I am not sure I understood what the other question was that I was asked.

The Greffier of the States (in the Chair):

I think it was a question about what would happen to an order which was in place at the point on 30th April or 30th September when the regulations expire, what would happen to that order? I think that was the question that the Deputy asked, yes.

The Solicitor General:

I might just want some time to think about that. Is the Deputy thinking of a particular order? Is it the one that was made, I think, in December 2021?

Deputy J.H. Young:

Yes, Sir, that is the one.

The Greffier of the States (in the Chair):

Yes.

The Solicitor General:

Can I just have a moment?

The Greffier of the States (in the Chair):

Yes, well I think we have got Deputy Morel to speak and I think this debate will run into tomorrow, potentially. But is this a ...

Deputy R.J. Ward:

Can we have a clarification, please, Sir?

The Greffier of the States (in the Chair):

You can try.

Deputy R.J. Ward:

Just very quickly of the Minister, otherwise it will be lost. The Minister mentioned about the homes closing if we do not have these regulations but in normal times if they did not have the staff, if they could not have the right qualified staff, would these homes stay open? Is the thing that is keeping

them open COVID, and are we in that situation? That is a really important clarification when we talk about the risk of care homes closing because we have to understand the context.

Deputy J.H. Young:

This is where I struggle with this. We have a law that requires people to register; those registers put conditions on those registrations. If providers do not meet those conditions, then in the case of this particular provision, which is this one that we are seeking to renew here, the safeguard is that there is an exclusion for one month, as I think Deputy Ward spoke about from those staffing levels, and then there is a notification to myself and the Minister for Health and Social Services. I think when I spoke about closure I think is *in extremis*, in other words, if there are failures in a home. Of course there has been at least one other home where matters have been drawn to my attention, which are nothing to do with staffing levels at all. Ultimately, I think that is a problem which is ongoing, which I do not want to go into. The point is this, I think this legislation here is on the narrow point of staffing levels. I have spoken about the 4 I am aware of and I have agreed to circulate the details of the report that the commission have given, and I absolutely agree with the Minister for Health and Social Services that the arrangements, to get round that problem, are very, I think, fair and practical and safe, according to the commission. But if they find fundamental problems that this narrow provision and this law cannot be used, then they have got other processes, which, ultimately, is to serve improvement notice and I believe, potentially, withdraw the legislation; that is *in extremis*, so maybe I should not have brought that in. I do not believe there is any prospect in this case of that happening because the safeguards are working. I think that the case has been made so they are necessary.

The Greffier of the States (in the Chair):

Solicitor General, are you ready to answer that query?

The Solicitor General:

Yes, I should correct the advice I gave a moment ago, having read Article 17A of the Regulation of Care (Standards and Requirements) (Jersey) Regulations; 17A in fact does not apply to people providing residential care for children. That is clear from 17A paragraph (5): “Nothing in this regulation applies to a registered person to the extent that the regulated activity concerned includes provision of care to a child.” Children’s care homes are, as it were, carved out of the special COVID-19 concessions. I think the answer to the other question is this: the vires for the Minister to make an order under 17A excusing adult care home providers from certain of the statutory requirements because of COVID, the vires for that comes from Article 17A. It seems to me that an order made using that power cannot survive the demise of that power when Article 17A lapses, so it is tied to the date at which it expires.

The Greffier of the States (in the Chair):

I wonder if this would be an appropriate moment to adjourn to reflect on these contributions and ...

Deputy K.F. Morel:

Sir, I am asking one question in my speech, so if I may ...

The Greffier of the States (in the Chair):

It is already 5.30 p.m. so I am obliged to find out whether the Assembly wishes to adjourn and one question often leads to another, Deputy. The adjournment is proposed. Those Members who ...

Deputy C.S. Alves:

Sorry, Sir, I wanted to maybe propose that we sit later tomorrow because there are still 13 items left on the Order Paper, with a couple of them, potentially, being quite big debates. I think it is fair that we give people as much notice as possible. I thought it would be worth maybe mentioning that now.

[17:30]

The Greffier of the States (in the Chair):

What is your proposition, Deputy?

Deputy C.S. Alves:

I would like to propose that we sit until 8.00 p.m. like we did, was it last week, with a half an hour break at 5.30 p.m. tomorrow?

The Greffier of the States (in the Chair):

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

Deputy J.A. Martin:

I thought I had gone out of the coffee room and come back on Thursday. Tomorrow is Thursday, we are here, we have agreed to Friday. At a good pace we can do this. We are making silly decisions about 8.00 p.m. tomorrow night. I am absolutely against this. Sorry, if I was supposed to stand up and support it, no. We can do a whole day tomorrow and Friday.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on the proposition?

Deputy J.H. Perchard:

Yes, I just wanted to quickly add, I agree with Deputy Martin. The last time we agreed a decision about Thursday when we had a continuation day on Friday set aside, we ended up not using the whole of the day on the Friday and I think we should make the decision about sitting late tomorrow after we have a better assessment of where we are by the end of the day tomorrow. We have still got 2 days left, we are well over halfway and I would be opposed to deciding on sitting late tomorrow until 8.00 p.m.

The Connétable of St. Ouen:

I think I agree with the last 2 speakers. A number of the items coming up for debate one would like to think are relatively straightforward and I am sure we will get through them reasonably quickly. I think we will be in a good position by tomorrow lunchtime to make this decision, rather than making it now, so I would support that view.

Deputy I. Gardiner:

I would like just to echo that by 8.00 p.m. tomorrow we will not make a good decision and I would like to raise with the Assembly, would we maybe consider to start at 9.00 a.m., like most of the people start around, not tomorrow but people start work at 8.30 a.m., 9.00 a.m. and I would rather start at 9.00 a.m. than to finish at 8.00 p.m., as an idea going forward?

The Greffier of the States (in the Chair):

We will do one proposition at a time. **[Laughter]**

Deputy M. Tadier:

I will not be supporting this. I know it has been moved for helpful reasons but I will be voting against. But what I think we should do for tomorrow and Friday, if we are sitting, is to agree to sit until 6.00 p.m. instead. The problem with the current proposal is that you are already losing half an hour if you break at 5.30 p.m., which is counterintuitive to come back when you are probably very tired. I think if we make a note in our diary - and this will be the counterproposal afterwards if anyone wishes to - sit until 6.00 p.m., we all know where we are. If it looks like we are going to finish tomorrow evening, then we may well decide to stay another hour or 2 but I think it helps to plan in advance.

Deputy K.F. Morel:

Only, Sir, I thought the adjournment had been proposed, so it seems like we are debating a different proposition to the adjournment.

The Greffier of the States (in the Chair):

There is a degree of flexibility, Deputy, to allow the Assembly to make its decisions. **[Laughter]** I felt it was best for the Assembly to hear Deputy Alves' point and to then reach a conclusion on this, rather than to dash ahead with the adjournment but thanks for the contribution. Does any other Member wish to speak in this debate? If not, Deputy Alves, do you wish to sum up?

Deputy C.S. Alves:

Yes. I just wanted to put the option out there to give as much notice to Members as possible. I am happy to withdraw the proposition now and we can look at it again tomorrow.

The Greffier of the States (in the Chair):

We have finished the debate, Constable. Does the Assembly wish to consent the withdrawal of the proposition? All those in favour please stand. Thank you very much.

Deputy M. Tadier:

Sir, can I propose that we do sit until 6.00 p.m. tomorrow if need be?

The Greffier of the States (in the Chair):

Is that seconded? **[Seconded]** Thank you very much. Bearing in mind we have just debated a very similar proposition, does any Member wish to speak on sitting until 6.00 p.m. tomorrow?

Deputy M. Tadier:

Sir, I do not need to speak on it, do I, in making it?

The Greffier of the States (in the Chair):

You have already made the proposition, so I am looking to see whether any Member wishes to contribute. I do not sense that that is the case. If you are maintaining the proposition, do you wish to call for an *appel* or a standing vote?

Deputy M. Tadier:

Yes, the *appel* just for people at home I guess.

Deputy K.F. Morel:

Sir, was the proposition seconded?

The Greffier of the States (in the Chair):

The proposition was seconded, yes, thank you. The *appel* has been called for. The proposition is to sit tomorrow until 6.00 p.m. and I will ask the Greffier to open the voting and those online to vote in the Chat. If all Members have had the opportunity to cast their votes, I ask the Greffier to close the voting. The proposition has been adopted: 25 votes pour, 16 contre with one abstention.

The adjournment is proposed. Is the adjournment seconded? **[Seconded]** Thank you. Members in favour of the adjournment, please show. I think the Assembly stands adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:36]