

STATES OF JERSEY



ANNUAL BUSINESS PLAN 2008 (P.93/2007): TENTH AMENDMENT (P.93/2007 AMD.(10))– COMMENTS

**Presented to the States on 14th September 2007
by the Council of Ministers**

STATES GREFFE

COMMENTS

The Council of Ministers opposes the amendment.

While the Council of Ministers opposes the amendment it is important to state from the outset that there is wide support for the principle of having robust consumer protection, both in financial services and more generally. The way of achieving this protection, however, is by thorough consultation and an understanding, not only in broad terms of what we want to achieve, but how specific and targeted proposals will bring them into effect.

The issue of whether to provide a statutory Financial Ombudsman Scheme has been well rehearsed, having been considered by the States on no less than 6 occasions not counting written and oral questions. *Ad hoc* amendments to the Legislation Programme, however well intended, do not simply translate into well reasoned and understandable law drafting instructions. One of the common problems that used to be faced by the Law Draftsman was the constant piecemeal amending of the Programme because items were withdrawn, replaced or because instructions simply were not ready. The new process is a great advance on the former and considerable care and planning has gone into its preparation. This does not mean that it is inflexible or that priorities should not and cannot change. However, when circumstances demand such a change, the significance of the proposal should be widely recognised and reflect a strong public demand, business need or legal obligation. By virtue of these circumstances, such changes should be truly exceptional.

It is not clear that provision of a Financial Ombudsman Scheme within the 2008 Legislation Programme fulfils these criteria. It is certainly worthwhile and will, if delivered properly, bring public benefit. But it cannot be guaranteed that the instructing department, Economic Development, will be ready in 2008 to deliver the instructions. Good drafting instructions are not simply crafted or copied from other jurisdictions whose experience or situation may not be relevant or proportionate to that in Jersey. Indeed, that is one reason why the States has endorsed a new system of green and white paper consultations so that all people and businesses in Jersey have an opportunity to comment upon proposals and influence the production of legislation that is fit for purpose.

Members will be aware that the Minister for Economic Development has already given an undertaking to begin work on the need for such a scheme, whether it is the most cost-effective means of giving local residents higher levels of protection and redress, or whether other options should also be considered. He has given a guarantee to rule nothing in and nothing out and that work will begin in January 2008. The Minister now further undertakes to report the findings of the consultation in the earliest possible course in 2008. Having given this commitment it is unreasonable to suggest that drafting instructions should be finalised so quickly.

Indeed, prior to the drafting process being completed there can be no guarantee that the final model for such a scheme would be cost-neutral to the taxpayer. If, as seems to be anticipated in the Proposition, the industry is asked to pay, then it is likely that this cost will be passed onto consumers in the form of higher premiums, tariffs and charges, which goes against what Economic Development and the Council of Ministers is trying to achieve. Jersey is already considered in many quarters as being an expensive place to do business and it would be quite wrong to import a scheme that will make our premier industry less competitive while predominantly benefiting non-residents, such as that which was implemented in the Isle of Man.

Finally, the Amendment does not include any argument as to why the States decision to review the Liquor Licensing Law should be delayed from implementation. Changing a department's business plan is not a simple case of replacing one piece of work with another. Financial services work is undertaken by different teams to those who work on other regulatory or policy matters. Shifts of this kind have the potential to cause under-utilisation in one team while placing excessive demands on another, which in their turn requires the redistribution of resources. In this manner, the Proposition's assertion to have no financial or manpower implications is short-sighted.

The Liquor Licensing Law is in urgent need of review. Not only is the system burdensome and complicated, it has not kept pace with modern times and crucially, does not give the police or fire and rescue service adequate tools to ensure the protection of life, property and the prevention of disorder. And the proposed review has the full support of the States of Jersey Police. The scale of problems related to alcohol in this Island is far and away more urgent and serious than those related to the mis-selling of financial products, and work is well underway on

redressing these problems. Drafting instructions will be produced in 2008, and to remove the drafting time and replace it with a proposal that in all likelihood will not be completed on time is not efficient, effective or in the public interest.

The Council of Ministers urges members to reject the amendment of Deputy Breckon.