

**THE STATES assembled on Tuesday  
11th March 2008, at 09.30 a.m. under  
the Presidency of the Deputy Bailiff,  
Mr. Michael Cameron St. John Birt Esquire.**

**His Excellency the Lieutenant Governor,  
Lieutenant-General Andrew Peter Ridgway, C.B., C.B.E.,  
was present**

All members were present at roll call with the exception of –

Senator Frank Harrison Walker – en défaut (défaut raised at 9.38 a.m.)  
Senator Wendy Kinnard – en défaut (défaut raised at 9.49 a.m.)  
Connétable Kenneth Alan Le Brun of St. Mary– en défaut (défaut raised at 10.42 a.m.)  
Connétable Thomas John du Feu of St. Peter– ill  
Deputy Alan Breckon of St. Saviour– en défaut  
Deputy Jacqueline Jeannette Huet of St. Helier– en défaut  
Deputy Peter Nicholas Troy of St. Brelade– ill  
Deputy Patrick John Dennis Ryan of St. Helier– en défaut (défaut raised at 9.49 a.m.)  
Deputy Anne Enid Pryke of Trinity – en défaut  
Deputy Shona Pitman of St. Helier– ill  
Deputy Kevin Charles Lewis of St. Saviour– absent on States business

Prayers

**Subordinate enactments tabled**

The following enactments were tabled, namely –

Road Racing (Hill Climbs and Sprint) (Jersey) Order 2008. <i>Minister for Transport and Technical Services.</i>	R&O.35/2008.
Sand Racing (Jersey) Order 2008. <i>Minister for Transport and Technical Services.</i>	R&O.36/2008.
Companies (Prescribed Currency) (Revocation) (Jersey) Order 2008. <i>Minister for Economic Development.</i>	R&O.37/2008.

**Documents presented or laid**

Draft Taxation (Land Transactions) (Jersey) Law 200- (P.185/2007): comments. Presented: 10th March 2008. <i>Corporate Services Scrutiny Panel.</i>	P.185/2007. Com.
Draft Price Indicators (Jersey) Regulations 200- (P.14/2008): amendments (P.14/2008 Amd.)– comments. Presented: 11th March 2008. <i>Minister for Economic Development.</i>	P.14/2008. Amd.Com.
Draft Goods and Services Tax (Amendment) (Jersey) Law 200- (P.17/2008): comments.	P.17/2008. Com.

Presented: 7th March 2008. <i>Corporate Services Scrutiny Panel.</i>	
Draft Civil Aviation (Jersey) Law 200- (P.18/2008): comments. Presented: 6th March 2008. <i>Education and Home Affairs Scrutiny Panel.</i>	P.18/2008. Com.
Rear seat-belts and child booster seats (P.27/2008): comments. Presented: 5th March 2008. <i>Minister for Transport and Technical Services.</i>	P.27/2008. Com.
States Rental Waiting List. Presented: 3rd March 2008. <i>Minister for Housing.</i>	R.17/2008.
The Jersey Advisory and Conciliation Service: Annual Report 2007. Presented: 5th March 2008. <i>Minister for Social Security.</i>	R.18/2008.
Land Transactions under Standing Order 168(3) – GSM Site, La Rue des Près, St. Saviour– new lease to Jersey Telecom Limited. Presented: 10th March 2008. <i>Minister for Treasury and Resources.</i>	R.19/2008.
Births, Marriages and Deaths in 2007: statement. Presented: 11th March 2008. <i>Minister for Home Affairs.</i>	R.20/2008.
Policing of Events: User Pays? Presented: 11th March 2008. <i>Education and Home Affairs Scrutiny Panel.</i>	S.R.4/2008.

### **Notification of lodged propositions**

Draft Sea Fisheries (Inshore Trawling, Netting and Dredging) (Amendment) (Jersey) Regulations 200- Lodged: 6th March 2008. <i>Minister for Economic Development.</i>	P.36/2008.
Health Services Disciplinary Tribunal: constitution and appointment of Members. Lodged: 11th March 2008. <i>Minister for Social Security.</i>	P.37/2008.

### **Withdrawal of lodged propositions**

THE STATES noted that, in accordance with Standing Order 34(1), the proposer of the following proposition lodged “au Greffe” had informed the Greffier of the States that it had been withdrawn –

Draft Harbours (Amendment No. 41) (Jersey) Regulations 200. Lodged: 29th January 2008. <i>Minister for Economic Development.</i>	P.15/2008.
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## **Written Questions**

*(see Official Report/Hansard)*

The Minister for Planning and Environment tabled an answer to a question asked by the Connétable of St. John regarding the number of sites identified in the 2002 Island Plan which remain unused.

The Minister for Transport and Technical Services tabled an answer to a question asked by the Connétable of St. Helier regarding delays in establishing a residents' parking scheme at Cheapside.

The Minister for Transport and Technical Services tabled an answer to a question asked by Deputy P.V.F. Le Claire of St. Helier regarding the sale of compost.

The Minister for Social Security tabled an answer to a question asked by Deputy G.C.L. Baudains of St. Clement regarding the ability of hospital consultants to prescribe medication under the health insurance scheme.

The Chief Minister tabled an answer to a question asked by Deputy G.C.L. Baudains of St. Clement regarding the employment of Public Relations Advisers.

The Chairman of the Privileges and Procedures Committee tabled an answer to a question asked by Deputy R.G. Le Hérissier of St. Saviour regarding the objectives of the 'What is Scrutiny' conference.

The Chief Minister tabled an answer to a question asked by Deputy R.G. Le Hérissier of St. Saviour regarding a policy for dealing with concerns raised by 'whistleblowers'.

The Minister for Health and Social Services tabled an answer to a question asked by Deputy R.G. Le Hérissier of St. Saviour regarding the establishment of a complaints process in tandem with Guernsey.

The Minister for Education, Sport and Culture tabled an answer to a question asked by Deputy I.J. Gorst of St. Clement regarding appeals against the current Nursery Education Placement Policy.

The Minister for Transport and Technical Services tabled an answer to a question asked by Deputy C.J. Scott Warren of St. Saviour regarding the progress of a scheme to create a pedestrian crossing at Longueville Road.

The Minister for Treasury and Resources tabled an answer to a question asked by Deputy C.J. Scott Warren of St. Saviour regarding the funding of a scheme to create a pedestrian crossing at Longueville Road.

The Minister for Treasury and Resources tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding anonymous asset holdings.

The Minister for Treasury and Resources tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the impact of RPI(Y).

The Chief Minister tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the impact of growth in the finance sector.

The Minister for Social Security tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the disproportionate growth of Social Security supplementation.

The Minister for Housing tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the demand for 3-bed social rental homes.

The Minister for Social Security tabled an answer to a question asked by Deputy G.P. Southern of

St. Helier regarding the treatment of public sector employees under the Employment Relations Law.

The Minister for Treasury and Resources tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the funding of the Millennium Town Park.

The Minister for Economic Development tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding growth in the finance sector.

### **Oral Questions**

*(see Official Report/Hansard)*

Deputy G.P. Southern of St. Helier asked a question of the Minister for Housing regarding the purchase of buy-to-let properties through share transfer methods.

Deputy R.G. Le Hérisier of St. Saviour asked a question of the Minister for Health and Social Services regarding the workings of political and administrative accountability with regard to the allegations made about Child Care in the Island.

The Deputy of St. Martin asked a question of the Minister for Home Affairs regarding the outcome of an internal inquiry by the Head of the Customs and Immigration Service into the activities of a number of Customs Officers.

Deputy R.G. Le Hérisier of St. Saviour asked a question of the Chairman of the Privileges and Procedures Committee regarding alternatives to a Freedom of Information Law.

Deputy J.A. Martin of St. Helier asked a question of the Minister for Housing regarding the future of the Ann Court site.

Deputy G.P. Southern of St. Helier asked a question of the Minister for Social Security regarding changes to Disability Transport Allowance.

Deputy P.V.F. Le Claire of St Helier asked a question of the Minister for Transport and Technical Services regarding safety concerns at the end of Garden Lane from traffic turning from Val Plaisant into Devonshire Place at Reid's the Chemists.

Deputy P.V.F. Le Claire of St. Helier asked a question of the Chief Minister regarding the financial and manpower commitments of the Communications Unit from its inception to date.

Deputy G.C.L. Baudains of St. Clement asked a question of the Minister for Education, Sport and Culture regarding the consultation on the possibility of Jersey having a 'National Gallery'.

The Connétable of St. Helier asked a question of the Minister for Planning and Environment regarding measures taken to reduce the amount of packaging import by the Island.

The Deputy of St. Martin asked a question of the Minister for Home Affairs regarding whether Parish Hall sanctions for various breaches of the law which the public receive during the course of a year are considered to be convictions and subject to the requirements of the Rehabilitation of Offenders (Jersey) Law 2001.

Deputy G.C.L. Baudains of St. Clement asked a question of the Minister for Transport and Technical Services regarding the cost and quality of the recent road re-surfacing at Brig y Don.

Deputy J.A. Martin of St. Helier asked a question of the Minister for Education, Sport and Culture regarding the future closure of Parish primary schools due to reduced pupil numbers.

### **Oral Questions without notice**

*(see Official Report/Hansard)*

The Minister for Economic Development answered questions without notice from members.

The Minister for Planning and Environment answered questions without notice from members.

### **Change of Presidency**

The Deputy Bailiff retired from the Chamber during the Minister for Economic Development's period of questions without notice and the meeting continued under the presidency of the Bailiff. It was noted that this was the Bailiff's first meeting following a period of absence through ill-health and the Assembly greeted his return in the customary manner.

### **Statements on a matter of official responsibility**

*(see Official Report/Hansard)*

The Assistant Minister for Economic Development made a statement regarding the Sea Transport Policy.

The Minister for Transport and Technical Services made a statement regarding structural damage to the sea wall between West Park and First Tower.

### **Code of Practice for Scrutiny Panels and the Public Accounts Committee P.198/2007 Amendment**

THE STATES commenced consideration of a proposition of the Chairmen's Committee concerning a Code of Practice for Scrutiny Panels and the Public Accounts Committee and rejected amendments of the Council of Ministers that –

in paragraph 9.23 after the words "The information" for the word "will" there should be substituted the word "may";

in paragraph 9.24, for the words "Part B reports from the Council of Ministers meetings will be promptly forwarded following consideration by the Council and relevant Minister", there should be substituted the words "If it has been agreed that a Part B report from a Council of Ministers' meeting will be provided, this will be promptly forwarded following adequate consideration by the Council and the relevant Minister.";

and in paragraph 9.26, after the words "and the Chairman, Privileges and Procedures Committee" the words "for resolution" should be deleted.

Members present voted as follows –

#### **POUR: 15**

Senator W. Kinnard  
Senator T.A. Le Sueur  
Senator P.F. Routier  
Senator M.E. Vibert  
Senator P.F.C. Ozouf  
Senator T.J. Le Main  
Senator B.E. Shenton

#### **CONTRE: 25**

Senator L. Norman  
Connétable of St. Mary  
Connétable of St. Clement  
Connétable of St. Helier  
Connétable of Trinity  
Connétable of St. Lawrence  
Connétable of Grouville

#### **ABSTAIN: 0**

Connétable of St. Ouen  
Deputy J.B. Fox (H)  
Deputy J.A. Hilton (H)  
Deputy G.W.J. de Faye (H)  
Deputy J.A.N. Le Fondré (L)  
Deputy A.J.D. Maclean (H)  
Deputy I.J. Gorst (C)  
Deputy of St. Mary

Connétable of St. Brelade  
Connétable of St. Martin  
Connétable of St. John  
Connétable of St. Saviour  
Deputy R.C. Duhamel (S)  
Deputy of St. Martin  
Deputy C.J. Scott Warren (S)  
Deputy R.G. Le Hérisssier (S)  
Deputy J.A. Martin (H)  
Deputy G.P. Southern (H)  
Deputy S.C. Ferguson (B)  
Deputy of St. Ouen  
Deputy P.J.D. Ryan (H)  
Deputy of Grouville  
Deputy of St. Peter  
Deputy P.V.F. Le Claire (H)  
Deputy D.W. Mezbourian  
(L)  
Deputy S.S.P.A. Power (B)

THE STATES, adopting an amendment of the Council of Ministers agreed that for paragraphs 9.27 to 9.31 relating to legal advice, the following paragraphs should be substituted –

“9.27 For the reasons that –

- (i) the States Assembly is not a proper forum for argument about which of two sets of competing legal advice is correct; and
- (ii) there will be a potentially significant cost to the public purse if Scrutiny Panels engage external lawyers on a regular basis,

it is desirable, where possible, that Ministers, the Scrutiny Panels and the PAC seek legal advice from the Law Officers’ Department rather than the private sector. It will be the duty of the Law Officers to seek to ensure that, to the extent that they are advising more than one party on the same set of facts, the advice is given on a consistent basis and does not by any inconsistency cause embarrassment to States members. It is understood that Ministers, Panels or PAC are absolutely entitled to seek private sector advice however if they choose to do so, or if the Law Officers advise that, for whatever reason, they are unable to advise a Minister, a Panel or the PAC on a particular matter.

9.28 It is essential that there is no inhibition on Ministers and their departments, who will usually also be taking advice from the Law Officers, both from seeking that advice, and, when it is sought, from giving the Law Officers all the relevant facts. If such inhibitions do exist, there is the probability that from time to time no advice or the wrong advice will be given, with maladministration as a result. Protection of the confidentiality of communications between the Law Officers and Ministers and their departments is therefore essential.

9.29 It is recognised by the States and the Law Officers that the process of seeking and taking legal advice from the Law Officers is confidential. There are three primary underlying reasons for this –

- (i) to ensure that there is no damage done to the public interest by the publication of legal advice given by the Law Officers;

- (ii) to ensure that there is no inhibition on the part of Ministers, the Scrutiny Panels or the PAC in taking advice;
- (iii) to ensure that there is no inhibition on the part of the Law Officers or lawyers within their Department in giving full and frank advice on all the matters which are raised with the Law Officers or one of the Departmental lawyers for advice, or which the Law Officers or the advising lawyer consider should reasonably be volunteered to the Minister, the Panel or the PAC for consideration.

9.30 For these reasons, the Protocol agreed between the Scrutiny Panels and the Law Officers, which covers the taking and giving of legal advice, is as follows –

- (1) Neither the Scrutiny Panels (which includes for this purpose their officials) nor the Law Officers will publish without the consent of the other:
  - The fact that legal advice has been sought.
  - The facts which have been given to the Law Officers for the purposes of taking advice.
  - The legal advice which has been given to the Panel (or its officials) on the facts presented to the Law Officers.
- (2) Nothing in paragraph (1) prevents a Panel making a statement in a Report to the States as to what in its opinion the law is, or as to what its understanding is of the legal basis of the policy followed or decision taken. The Law Officers will be afforded the opportunity to review Reports made in order to ensure confidentiality about legal advice is maintained.
- (3) In making a statement under paragraph (2), Panels should be careful to ensure that no implication is given that their statement has been endorsed by the Law Officers.
- (4) Scrutiny Panel members recognise and accept that Ministers and their officials will maintain their claim to legal advice privilege, except in exceptional circumstances, if questioned by a Panel, and will not seek to interfere with that privilege. Such exceptional circumstances are likely to arise only where there is a coordinated Law Officer, Ministerial and Scrutiny approach to the release of the advice, where there would be no adverse impact on actual or possible legal proceedings in the court, and where there would be no undesirable precedent set as a result.
- (5) Scrutiny Panels and the Law Officers recognise that, in exceptional cases, the public interest, which is both different from and wider than the political interests of the Panels and the professional interests of the Law Officers, may override the very strong public interest factors set out in paragraphs 9.27 to 9.29 above, and make it desirable that the legal advice given to Scrutiny Panels is published. In such cases, the Panel and the Law Officers undertake to discuss how the public interest can best be accommodated. If there is no agreement between them, the views of the Privileges and Procedures Committee will be sought. If at the end of those discussions, there remains a lack of consensus, the question of publication or not will be a matter for the judgment of the individual Panel.
- (6) The provision of legal advice to a Scrutiny Panel must take reasonable account of the timetable in which a review is being conducted. If pressure of workload on the Law Officers' Department prevents a prompt response to a request from a Scrutiny Panel for advice, the Law Officers should notify the Panel Chairman as

soon as possible so that other arrangements can be made. It is further understood that the Law Officers will endeavour to advise Scrutiny Panels in all cases unless there are exceptional reasons, whether practical or theoretical why they feel unable to do so.

- (7) The Law Officers have requested that where a Scrutiny Panel seeks advice from them, the Panel ensures that where reasonably possible it makes available to the Law Officers a detailed summary of the facts and documents on which the advice is sought.
- (8) Where a Scrutiny Panel takes legal advice from the private sector, it is desirable that it should consider disclosing that advice to the Law Officers in order that any potential disagreement about what the law is can be identified and so that, in the event of such disagreement, discussions where appropriate can take place between the Panel and the Law Officers so as to minimise any difficulties for States members as a result.”

Members present voted as follows –

**POUR: 32**

Senator L. Norman  
Senator F.H. Walker  
Senator W. Kinnard  
Senator T.A. Le Sueur  
Senator P.F. Routier  
Senator M.E. Vibert  
Senator P.F.C. Ozouf

Senator T.J. Le Main  
Senator B.E. Shenton  
Senator F.E. Cohen  
Senator J.L. Perchard  
Connétable of St. Ouen  
Connétable of St. Helier  
Connétable of Trinity

Connétable of St. Lawrence  
Connétable of Grouville  
Connétable of St. Brelade  
Connétable of St. Martin  
Connétable of St. John  
Connétable of St. Saviour  
Deputy C.J. Scott Warren (S)  
Deputy J.B. Fox (H)  
Deputy of Grouville  
Deputy of St. Peter  
Deputy J.A. Hilton (H)  
Deputy G.W.J. de Faye (H)  
Deputy J.A.N. Le Fondré (L)  
Deputy S.S.P.A. Power (B)  
Deputy A.J.D. Maclean (H)  
Deputy of St. John  
Deputy I.J. Gorst (C)  
Deputy of St. Mary

**CONTRE: 14**

Senator S. Syvret  
Connétable of St. Mary  
Connétable of St. Clement  
Deputy R.C. Duhamel (S)  
Deputy of St. Martin  
Deputy G.C.L. Baudains (C)  
Deputy R.G. Le Hérissier  
(S)  
Deputy J.A. Martin (H)  
Deputy G.P. Southern (H)  
Deputy S.C. Ferguson (B)  
Deputy of St. Ouen  
Deputy P.J.D. Ryan (H)  
Deputy P.V.F. Le Claire (H)  
Deputy D.W. Mezbourian  
(L)

**ABSTAIN: 0**



## **Adjournment**

THE STATES adjourned, having agreed to reconvene on Wednesday 12th March 2008 to continue consideration of Code of Practice for Scrutiny Panels and the Public Accounts Committee (P.198/2007) and the outstanding items of public business.

THE STATES rose at 5.30 p.m.

**A.H. HARRIS**

*Deputy Greffier of the States*