

2019.06.18

6.1 Deputy K.F. Morel of the Minister for Social Security regarding the withdrawal of P.17/2019:

Will the Minister provide an explanation of the reasons for withdrawing P.17/2019, that is the family friendly legislation and confirm why she has chosen to withdraw the whole law, rather than solely Article 4, as recommended by the Economic and International Affairs Scrutiny Panel?

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

The reason is that I fundamentally disagree with the removal of Article 4 on the draft law, because I want to bring all the new family-friendly rights in together. These rights will be providing equality in parental leave for different types of parents, the legislation is intended to encourage gender balance in childcare roles, reducing discrimination against women, by encouraging a change in workplace attitudes and practices towards involvement of the father, or the partner, in childcare. Obviously, I am very disappointed at this stage that I have to withdraw, but I emphasise that it is temporary and this law will return in the next session.

6.1.1 Deputy K.F. Morel:

Supplementary. I did ask, could she explain the reasons why it had been withdrawn; I do not believe that was done?

Deputy J.A. Martin:

Today we would have been debating either deleting Article 4, as recommended by the Scrutiny Panel, or not deleting Article 4.

[12:00]

Politically, I then found out that I could not promote Article 4, because there was a small issue about removing an absolute right for women. I decided that I would spend the summer going over the legislation and make sure that it absolutely works, it does not disadvantage anybody; that the fundamental of support in the family friendly law I still stand by every Article.

6.1.2 Senator S.C. Ferguson:

Will the Minister confirm that she will investigate and consult on the effects of this particular law on small businesses before she brings it back to the States? Because if you have a small business it could be incredibly damaging.

Deputy J.A. Martin:

Here we go into the reasons of why not, why did I withdraw? Small businesses, the whole community have been consulted and now they have had much more consultation and rights to come to Scrutiny. Another thing, I think Scrutiny were still interviewing women in politics yesterday, so there would have been another debate. They do mention I want to spend the summer with the great help of Deputy Doublet; women in politics, the breastfeeding champion at Family Nursing and all the Parishes. I want to write to them and see what breastfeeding facilities they can provide where possible and across town. I will take this opportunity to do what Scrutiny asked me. I do not think it is for Government to provide breastfeeding facilities, but I am sure there is a lot more out there that can be utilised and I look forward to doing that work over the summer.

Deputy K.F. Morel:

Point of clarification, Sir.

The Bailiff:

This is question time.

Deputy K.F. Morel:

No, just a point of clarification is just ...

The Bailiff:

No, it is still question time, we do not clarify at this stage ...

Deputy K.F. Morel:

We do not clarify, Sir.

The Bailiff:

Can I just say to Members that the question is about why the Minister withdrew the law and in the supplementary questions they are not going to be allowed questions about what the law should, or should not, contain; it is a question of why she has withdrawn the law?

6.1.3 Senator K.L. Moore:

It is heartening to hear the Minister refer to breastfeeding rights, because the law, as it would have been debated today, included the right for breastfeeding breaks and antenatal appointments to be taken, as Deputy Doublet acknowledged in an earlier question, which would be beneficial for all employees. Could the Minister please explain why she did not leave those Articles for the Assembly to bring forward today, in order for progress to be made and to ensure equality that the Minister referred to in her earlier statement?

Deputy J.A. Martin:

The recommendation is for 52 weeks' leave. If I brought the recommendations just for breastfeeding, is the magic number 26 weeks? Will women, because an employee has put some facility in, be urged to return to work before they are ready, before baby is ready? The Senator does not know that answer. The Forum says 52 weeks, then to provide breastfeeding rights and facilities and that is what I intend to do.

6.1.4 Deputy M. Tadier:

The Minister spoke about 52 weeks of breastfeeding, but her department is only proposing 6 weeks of paid social leave. What are women supposed to do, who cannot afford to take time off work for the rest of those 46 weeks?

Deputy J.A. Martin:

This is mentioned in the Scrutiny Panel report. Again, it is about where do you start? The Deputy wants probably and so do Scrutiny, to pay more money. I cannot emphasise enough there is no central government money. I could go out and ask people if they are prepared to pay 30 per cent, 40 per cent in tax, so we can be Sweden.

6.1.5 Deputy K.G. Pamplin:

Just drilling down into this, looking at the statement put out on the States of Jersey website in February of this year, it was noted that: 'The proposed changes to the law followed consultation with employers and employees undertaken by the Employment Forum in 2017.' That is obviously a little bit longer previously before you were Minister, so is there any concerns that

that consultation was not as thorough and that you want to look back at that, just as part of your thinking of pulling today's debate?

The Bailiff:

Through the Chair, please.

Deputy J.A. Martin:

No. I had full confidence and because it did come as a package it was to introduce either in one lot or, if not, in 2 parts. We were in the political cycle just before the election, we introduced the first part. The short answer is no. There was good consultation, which was supported earlier this year, even by Chamber. It is on video, if you would like to look at Scrutiny. It was in the gender pay gap video; they were quite happy.

The Bailiff:

Through the Chair too, Minister, thank you.

6.1.6 Senator K.L. Moore:

To follow up on the last answer, the Employment Forum's recommendation was for paid leave to be provided to ensure equality, not just between the sexes, but also between those who can and cannot afford to take unpaid leave. So, could the Minister assure the Assembly that work has been done to ensure that the recommendations of the Employment Forum to offer paid parental leave has been done?

The Bailiff:

I do not think that arises out of the question as to why the Minister has withdrawn the whole Law, does it?

Senator K.L. Moore:

I would suggest that perhaps it does, because this is one of the critical parts that has caused the Minister to withdraw the law.

Deputy J.A. Martin:

There was a minor legal issue pointed out in an Article under 4 that, if I had have brought, which I absolutely stand by implementing Article 4, I could not have proposed. It has nothing to do ... the Senator is on Scrutiny and in Scrutiny they do not agree with the Forum. You cannot have it both ways; I like this bit, but I do not like that bit. We are getting very political now. This is the debate I would have loved to have been having today and we are where we are.

The Bailiff:

The question, if I may remind Members, is why the Minister has withdrawn. She has given the information to Members as to why she has withdrawn, if there are further supplementary questions on that point alone then that is fine.

6.1.7 Deputy M. Tadier:

Is one of the reasons for the Minister withdrawing this law because she wants to look at a mechanism whereby employers can pay a higher rate of social security contributions to avoid taxes going up and to avoid all of the smaller businesses having to fork out the cost, or any costs, to do with this law, which she is proposing?

Deputy J.A. Martin:

No.

6.1.8 Deputy L.M.C. Doublet:

The Minister mentioned she would be consulting again with small businesses to ascertain the impacts on them to a further extent. Will she ensure that she also consults with organisations and campaign groups that represent women, children and families, to make sure that we do have a view on the evidence on the negative impacts of not introducing this legislation?

Deputy J.A. Martin:

I thank the Deputy. I did not say I would be consulting; this was put to me by members of the Scrutiny Panel. I think the consultation and I have written to all the small businesses who had concerns, wrong concerns, but the Deputy is absolutely right, I want to speak to everybody, I want to work with her. The Deputy has been fantastic in supporting, working with the Town Centre manager, working with the lady from Family Nursing, who is a breastfeeding champion. I want to get this in; I want to get it in for 52 weeks and I want to get it in to improve gender neutrality. Fathers should be included in child care and that is what we want to do.

6.1.9 The Connétable of St. Brelade:

Would the Minister confirm that one of her reasons for her withdrawing the proposition is in fact that it has been highlighted that consultation with small business has been inadequate and that she has not, perhaps, conducted that consultation in the way in which she might have done/

Deputy J.A. Martin:

I cannot be clear enough; I am so disappointed I am not standing here today to fight against removing Article 4. It has got nothing to do with anything else than a small legal thing that was pointed out to me, when I asked for some extra legal advice. Nothing else. I want to have this debate; I want to have it sooner, rather than later. We are all putting children first. Most children I know come in some sort of family and I want them to be equal families.

6.1.10 Deputy J.H. Perchard:

Is it not the case that the minor technical legal point, referred to by the Minister, does not in fact impinge upon the other aspects of the law that we could have debated today, such as the breastfeeding elements and the rights of surrogacy and adoptive parents?

Deputy J.A. Martin:

The circle has gone all the way around. I fundamentally disagree with removing the extra rights, so why would I propose something that is fundamental ... I have pointed out that this will give legal law draftsmen time to look at the whole law and make sure this has not been missed, while I do the extra consultation on the breastfeeding out in the parishes and the town.

6.1.11 Deputy K.F. Morel:

Before I ask the supplementary, I just wanted to clarify that the Minister was not correct in saying that the panel interviewed Women in Politics yesterday. The panel had a meeting, a friendly meeting, with Women in Politics yesterday purely to explain where we are coming from in our report and I think that is really important; there was no element of scrutiny going on yesterday, it was just a meeting. My final question is, when did the Minister and the department receive this advice that highlighted the small minor legal inconsistency and, given that the panel's report highlights several inconsistencies and problems with the way the law legally technically operates, could the Minister explain why this was not picked up in the previous 3 years of development of this piece of legislation?

Deputy J.A. Martin:

I can only go by what I saw on the Scrutiny website, it said the Scrutiny Panel were meeting with Politics in Jersey on P.17. I do not know what they are meeting about; that is as much as I knew. I was informed, I was called in to Legal Advice, the Attorney General met us at 8.30 a.m. on Wednesday morning, when I was going to Council to say: "Can we do this? Have I still got all their support?" Then the whole story changed, so that is where we are. Again, the Deputy talks about fundamental issues, there were a couple of issues that will now, can be, and will be, incorporated in the law, as drafted by the officers. Again, some of it, the fundamentals, are what you believe in politically and so that is always what you do when you have pieces of legislation scrutinised, there are always concerns raised. Again, at the end of the day, I will be bringing back the rights that I think are right for families in Jersey and then we will have the debate that is long overdue.