STATES OF JERSEY

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STATES MEMBERS' REMUNERATION: ABOLITION OF MEANS TESTING (P.145/2003) – COMMENTS

Presented to the States on 11th November 2003
by the Employment and Social Security Committee

STATES GREFFE

COMMENTS

The Employment and Social Security Committee has not been consulted directly nor, indeed, requested as indicated in paragraph 4.2 of the report "to consider bringing forward legislative change to enable States' Members to be treated as 'employed' ". Discussions to date have only been at officer level in regard to "what if" scenarios. The basic premise for this proposal seems to relate to an Income Tax issue anomaly and the Committee is not persuaded that it is good governance to change primary Social Security legislation on this basis.

Classification under Social Security legislation is very simple, namely Class I and Class II.

- Class I comprises persons employed under a contract of service, sometimes described as a master and servant relationship.

- Class II comprises all other persons not in the above class.

The present and long-standing position is that for Social Security contribution purposes, States Members are not considered to be employed under a contract of service by the States of Jersey and classification is therefore determined, as with any other individual, by having regard to each member's individual circumstances.

From the perspective of the Social Security Fund, there would be no significant impact from the proposed change in classification; neither would there be any significant advantages. The Department would continue to collect contributions from the "employer", i.e. the States of Jersey, and continue to receive the relevant levels of supplementation from general revenues where required.

The main advantage in changing the treatment of States Members to that of Class I (employed), is for the Members themselves.

Although the proposition outlines the position for 2004 and 2005, there are no firm references to the position should the classification status be changed. There is also some concern where the proposition implies that Members would be free to choose what level of remuneration, up to a maximum, that they felt appropriate. Whilst this might have no financial impact under existing Social Security legislation, there could be implications if such an arrangement continued if Members were reclassified as employees.

Without more specific information as to levels and make-up of the remuneration or salary, it is not possible to advise the States with any certainty as to how the arrangement would work in practice if classification was to be changed. Basically, the effects of changing the classification would result in the employer (the States) having to pay contributions on behalf of its additional employees which would result in additional cost.

The Employment and Social Security Committee is, therefore, of the view that it would not be good governance to change the basis of the classification and primary legislation for a small group of people who are clearly not "employees" in the conventional sense, at extra cost to the public purse. Rather, if the sole reason for this request is to get around the requirements of the Income Tax Law, it may be better to consider changes to that Law.