

STATES OF JERSEY



EMPLOYEE PROTECTION: LEGISLATION (P.95/2006) – COMMENTS

**Presented to the States on 22nd September 2006
by the Minister for Treasury and Resources**

STATES GREFFE

COMMENTS

Part (a)

I fully support of Part (a) of this proposition and the introduction of appropriate Employee Protection Legislation tailored to Jersey's needs and I welcome the work that the Minister for Social Security is undertaking to introduce such legislation.

However, as set out in the Minister for Social Security's comments, the timescale for the introduction of such legislation is somewhere between 18 to 30 months. A draft law might therefore be presented to the States during 2008, but it would then have to be scrutinised, passed by the States and ratified by the Privy Council.

It should be emphasised at this point that there is no certainty that our legislation when it is introduced will mirror that of UK TUPE regulations. Indeed, most comments to date suggest that what is needed is legislation that is suitable to Jersey. As such, it is absolutely critical that time is taken for the proper consideration of exactly what is suitable for the Island and its employees.

The Minister for Employment and Social Security will begin drafting appropriate legislation in 2007 after consideration of the Employment Forum's ongoing research and consultation on the matter. I am, therefore, doubtful that the legislation could be in force much before to December 2008.

Part (b)

1. I have undertaken, and I reaffirm that I will provide within any proposed contract of sale for the controlling interest in any publicly owned utility (for example the proposed / possible sale of Jersey Telecom), that employee protection rights will be included to a level at least as high as, and preferably higher than, anything which would be provided under UK-type TUPE legislation. For the avoidance of doubt, this undertaking includes the existing pension rights of past and current employees.

Given this undertaking, Part (b) of the proposition is entirely unnecessary. Far worse, it is damaging and dangerous because it inhibits any progress whatsoever in respect of the ownership of utilities for the next 2 years or so.

2. Specifically with regard to the potential disposal of Jersey Telecom, if Senator Shenton, or indeed any other States Member (including the Members of the Economic Affairs Scrutiny Sub-Panel currently engaged in a review of the proposal to sell Jersey Telecom Group Limited) has concerns about whether my aforementioned commitment can be achieved then, rather than approve Part (b) of the proposition, they should allow me to proceed with my deliberations and, if they are then still unconvinced, oppose any sale proposition which I bring to the States, probably early in the New Year, the Report for which will include my proposals for the protection of employee rights.

At that time the full detail of the contractual proposals will be available to all States Members. THAT should be the time at which Members can express their concerns, and if they are not satisfied with the proposed undertakings, THEN is the time for them to oppose the sale.

3. I have already outlined elsewhere my reasons for the timely completion the proposed sale of Jersey Telecom Group Limited, and the time for a debate on the matter is when I bring a proposition to the States in the new year. However in the context of Part (b) of this proposition Members should note that a long term delay to the proposed sale [which would be the inevitable consequence of agreeing part (b)] could, quite contrary to Senator Shenton's intention, put Jersey Telecom Group Limited employees' jobs at risk in the (quite likely) event that the company were to suffer in the face of new competition.

For these reasons I strongly urge Members not to support Part (b) of this proposition.