

STATES OF JERSEY ORDER PAPER

Tuesday 1st February 2005

A. COMMUNICATIONS BY THE BAILIFF

Interception of Communications (Jersey) Law 1993: Report of the Commissioner for 2004. R.C.3/2005.

B. TABLING OF SUBORDINATE LEGISLATION

(Explanatory note attached)

Community Provisions (Burma/Myanmar Sanctions) (Jersey) Order 2005. R&O 3/2005.

Policy and Resources Committee.

Financial Services (General Insurance Mediation Business (Registration and Fees)) (Jersey) Order 2005. R&O 4/2005.

Economic Development Committee.

Financial Service (General Insurance Mediation Business (Exemptions)) (Jersey) Order 2005. R&O 5/2005.

Economic Development Committee.

Shipping (Safety Codes) (Jersey) Order 2005. R&O 6/2005.

Harbours and Airport Committee.

C. MATTERS RELATING TO COMMITTEE MEMBERSHIP

D. PRESENTATION OF PAPERS

(a) Papers for information

Matters presented under Standing Order 6A(1)(a)

States Rental Waiting List. R.C.4/2005.
Housing Committee.

A People's Advocate (P.202/2004): comments. P.202/2004.
Privileges and Procedures Committee. Com.(3)

Referendum: Composition of the States Assembly (P.1/2005) – comments. P.1/2005. Com.
Policy and Resources Committee.

Connétables: voluntary re-election in 2005 (P.3/2005) – comments. P.3/2005. Com.
Connétable of St. Martin.

Draft Amendment (No. 28) of the Standing Orders of the States of Jersey (P.5/2005): comments. P.5/2005. Com.
Privileges and Procedures Committee.

Matters presented under Standing Order 6A(1)(b)

25th January 2005

Public and private sector construction workflow projections. R.C.2/2005.
Economic Development Committee.

Waste Management Strategy: Shadow Scrutiny Panel Interim Report. S.R.1/2005.
Senator E.P. Vibert.

A People's Advocate (P.202/2004): comments. P.202/2004.
Policy and Resources Committee. Com.(2).

(b) Notification of Standing Order decisions

13th January 2005

Committee decisions.
Finance and Economics Committee.

(c) Notification of acceptance of tenders

(d) Papers to be lodged "au Greffe" under Standing Order 17A(1)(a)

Draft Règlement (200-) (Abrogation) sur les Portefaix. P.16/2005.
Harbours and Airport Committee.

Senatorial elections 2005: reduced term of office. P.17/2005.
Deputy of St. Martin.

Draft Employment (Jersey) Law 2003 (Appointed Day) Act 200-. P.18/2005.
Employment and Social Security Committee.

Draft Employment Relations (Jersey) Law 200-. P.19/2005.
Employment and Social Security Committee.

(e) Notification of Papers lodged "au Greffe" under Standing Order 17A(1)(b)

25th January 2005

Field 812A, Bagot Manor Farm, St. Saviour: rezoning. P.12/2005.
Environment and Public Services Committee. (re-issue)

Environment Committee: establishment. P.13/2005.
Deputy G.C.L. Baudains of St. Clement.

Draft Jersey Overseas Aid Commission (Jersey) Law 200-. P.14/2005.
Overseas Aid Committee.

Draft Termination of Pregnancy (Amendment) (Jersey) Law 200-. P.15/2005.
Health and Social Services Committee.

(f) Papers for consideration by the States in Committee under Standing Order 38A

E. STATEMENTS AND PROPOSITIONS RELATING TO THE ARRANGEMENT OF PUBLIC BUSINESS AT THIS OR ANY SUBSEQUENT MEETING

In accordance with Standing Order 22(3), the President of the Environment and Public Services Committee has instructed the Greffier of the States to withdraw the proposition regarding Field 812A, Bagot Manor Farm, St. Saviour: rezoning, (P.155/2004 lodged "au Greffe" on 14th September 2004), the Committee having lodged a revised report and proposition on 25th January 2005.

In accordance with Standing Order 22(3), the President of the Policy and Resources Committee has instructed the Greffier of the States to withdraw the proposition regarding Windfarm near Les Ecrehous, (P.8/2005 lodged "au Greffe" on 18th January 2005), the Committee having presented a revised proposition at the present meeting.

THE STATES are asked to agree that the following matters lodged "au Greffe" be considered at their next meeting on 15th February 2005 -

Draft Royal Court (Amendment No. 11) (Jersey) Law 200. P.7/2005.
Lodged: 18th January 2005.
Legislation Committee.

Field 812A, Bagot Manor Farm, St. Saviour: rezoning. P.12/2005.
Lodged: 25th January 2005. (*re-issue*)
Environment and Public Services Committee.

F. PRESENTATION OF PETITIONS

G. QUESTIONS

(a) Written Questions

The President of the Environment and Public Services Committee will table an answer to a question asked by Deputy J.A. Hilton of St. Helier regarding the future development of a Town Park.

The President of the Finance and Economics Committee will table answers to questions asked by Deputy G.P. Southern of St. Helier regarding income tax revenues and reforms.

The President of the Employment and Social Security Committee will table an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the OXERA income support model.

(b) Oral Questions

H. MATTERS OF PRIVILEGE

I. PERSONAL STATEMENTS

J. COMMITTEE STATEMENTS

The President of the Policy and Resources Committee will make a statement regarding the next Jersey Census.

K. PUBLIC BUSINESS

Shadow Scrutiny Panels: appointment of member.
Privileges and Procedures Committee.
(attached)

Windfarm near Les Ecrehous.
Policy and Resources Committee.
(attached)

Draft Medicines (Amendment No. 2) (Jersey) Law 200. P.214/2004.
Lodged: 7th December 2004.
Health and Social Services Committee.

Senatorial Elections 2005. P.221/2005.
Lodged: 7th December 2004.
Deputy P.N. Troy of St. Brelade.

Connétables: voluntary re-election in 2005. P.3/2005.
Lodged: 4th January 2005.
Senator M.E. Vibert

Connétables: voluntary re-election in 2005 (P.3/2005) – comments. P.3/2005. Com.
Presented: 1st February 2005.
Connétable of St. Martin.

States Members' remuneration: register. P.225/2004.
Lodged: 14th December 2004.
Privileges and Procedures Committee.

Draft Housing (General Provisions) (Amendment No. 21) (Jersey) P.226/2004.
Regulations 200-.
Lodged: 14th December 2004.
Housing Committee.

Senators and Deputies: terms of office. P.227/2004.
Lodged: 14th December 2004.
Deputy A. Breckon.

Senators and Deputies: terms of office (P.227/2004) – comments. P.227/2004.
Presented: 18th January 2005. Com.
Finance and Economics Committee.

Jersey Police Complaints Authority: appointment of members. P.232/2004.
Lodged: 21st December 2004.
Home Affairs Committee.

Referendum: Composition of the States Assembly. P.1/2005.
Lodged: 4th January 2005.
Senator L. Norman.

Referendum: Composition of the States Assembly (P.1/2005) – comments. Presented: 1st February 2005. <i>Policy and Resources Committee.</i>	P.1/2005. Com.
H.M. Prison, La Moye: cell block, kitchen, electrical substation and fuel farm – approval of drawings. Lodged: 4th January 2005. <i>Home Affairs Committee.</i>	P.2/2005.
H.M. Prison, La Moye: cell block, kitchen, electrical substation and fuel farm – approval of drawings (P.2/2005) – comments. Presented: 18th January 2005. <i>Finance and Economics Committee.</i>	P.2/2005. Com.
Draft Amendment (No. 28) of the Standing Orders of the States of Jersey. Lodged: 11th January 2005. <i>Deputy G.P. Southern of St. Helier.</i>	P.5/2005.
Draft Amendment (No. 28) of the Standing Orders of the States of Jersey (P.5/2005): comments. Presented: 1st February 2005. <i>Privileges and Procedures Committee.</i>	P.5/2005. Com.

M.N. DE LA HAYE
Greffier of the States

27th January 2005

Note –

In accordance with a decision of the States on 16th November 2004, this meeting will continue, if necessary, on Wednesday 2nd February and Tuesday 8th February 2005.

Explanatory Note regarding subordinate legislation tabled at this meeting.

R&O 3/2005

This Order continues to give effect to Council Regulation 798/2004 of the Council of the European Union of 26th April 2004, which updated restrictions relating to the present regime in Burma/Myanmar, but as now amended by Council Regulation 1853/2004 of 25th October 2004.

The restrictions imposed by Council Regulation 798/2004 relate to the prohibition of assistance relating to military activities and internal repression, and the freezing of resources of persons connected with the regime. Council Regulation 1853/2004 now extends those restrictions to include entering into certain financial transactions with respect to State-owned enterprises of Burma/Myanmar.

The Order was made on 20th January 2005, and came into effect on 21st January 2005.

R&O 4/2005

This Order specifies the classes of general insurance mediation business for which a person may be registered and the application fees, annual fees and late payment fees that are payable in relation to registration in respect of those classes.

This Order was made on 21st January 2005, and came into force 7 days afterwards.

R&O 5/2005

This Order provides that certain persons are to be excluded from the requirement under the Financial Services (Jersey) Law 1998 (as amended by the Financial Services (Amendment No. 2) (Jersey) Law 2005) that a person who conducts general insurance mediation business be registered under the Law.

The persons excluded by the Order are persons only acting as such in relation to contracts in existence before the law changed to require them to be registered, and certain overseas persons.

This Order was made on 21st January 2005, and came into force 7 days afterwards.

R&O 6/2005

This Order specifies the safety standards to be complied with by Jersey ships in commercial use, including charter yachts but excluding fishing vessels, wherever they may be, that have a gross tonnage of 150 tons or less, or are small ships (i.e. less than 24 metres in length).

The Order applies also to non-Jersey ships of the same size operating from Jersey whilst in Jersey waters.

Additionally, the Order specifies the safety standard for all Jersey ships and other ships in Jersey waters with a gross tonnage of more than 150 tons but less than 400 tons that are not small ships.

The Order was made on 26th January 2005, and comes into force on 1st April 2005.

**NOTIFICATION OF STANDING ORDER DECISIONS -
FINANCE AND ECONOMICS COMMITTEE**

13th January 2005

As recommended by the Education, Sport and Culture Committee, the proposed purchase from Mr. Patrick Joseph McCarthy and Mrs. Jane Caroline McCarthy, née Armitage, of the southern part of Field No. 263A, Grouville (measuring approximately 0.33.0 vergée), for a consideration of £4,125 for the unencumbered freehold title of the land, (as shown on Planning and Environment Drawing No. 95/2). In addition, the public would also be responsible for meeting the vendor's legal costs, which were estimated not to exceed £1,000.

WRITTEN QUESTION PAPER

(See Item G)

The President of the Environment and Public Services Committee will table an answer to the following question asked by Deputy J.A. Hilton of St. Helier -

“Would the President confirm whether –

- (a) in a Committee report dated 29th September 2004, regarding the future development of a Town Park, there was a recommendation for a full ground contamination survey and analysis to proceed at the earliest opportunity to provide accurate information and data that is essential to enable thoroughly researched options for works in relation to the said Town Park?
- (b) if so, what steps has the Committee taken in securing the necessary funds to enable the survey to be carried out without further delay? and,
- (c) the matter has been referred to the Finance and Economics Committee during the period since September 2004, and if not, the reasons why?”

The President of the Finance and Economics Committee will table answers to the following questions asked by Deputy G.P. Southern of St. Helier -

1. Would the President inform members –

- (a) what the ‘*reasons unconnected to the move to 0/10%*’ attached to the loss of £10 million to £12 million in tax revenues referred to in his answer to my written question on 18th January 2005, are?
- (b) whether, in the light of his statement that ‘*the maximum level of tax revenues is in the order of £5 to £6 million*’, the Committee intends to generate the missing tax revenue of the order of £20 million from other sources, and, if so, which ones?

2. Would the President outline how anti-avoidance measures to catch a group of investors seeking to create an artificial arrangement under the Comptroller’s proposed 4.9% *de minimis* level on company holdings will work?

3. Would the President inform members what levels of transfers from income to capital via ‘roll-up funds’ are allowed under Article 134A of the Income Tax (Jersey) Law 1961, as amended, and how such levels are calculated?

The President of the Employment and Social Security Committee will table an answer to the following question asked by Deputy G.P. Southern of St. Helier -

“Following the President’s offer to demonstrate the OXERA model on income support to members given in answer to written questions on 18th January 2005, would the President allow members copies of the programme to examine in their own time, as was the case with the OXERA tax model?”

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to appoint the following as a member of the Shadow Scrutiny Panels:

Deputy Julian Alexander Bernstein of St. Brelade.

PRIVILEGES AND PROCEDURES COMMITTEE

Report

Following the decision of the States on 19th January 2005, to permit members of the Privileges and Procedures Committee to put their names forward for election to the Scrutiny Panels, Deputy J.A. Bernstein of St. Brelade has indicated that he would like to go forward, and the Committee therefore recommends to the Assembly that he be duly appointed.

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to agree that the French Government be requested to consult with the Island Authorities on the proposal to construct an offshore windfarm in French territorial waters off Saint-Rémy-des-Landes, Normandy, before any final decision is taken.

POLICY AND RESOURCES COMMITTEE

Report

Background to the windfarm project

In June 2003 the Island Authorities received correspondence from a company advising them of a proposal to build a windfarm in French territorial seas off Saint-Rémy-des-Landes, Normandy. The designated area is close to Les Écrehous reef which is within Jersey's territorial limits.

It is acknowledged that the French nation is committed to the production of sustainable energy. While generally supportive of the principle of sustainable energy, the Island Authorities have received only limited official communication about the windfarm development proposals.

- (i) In October 2003 States Members had the opportunity to attend a presentation on energy production given by Dr. Claude Gagnol, Vice-Président of the Conseil Général de la Manche and also Président of the Groupe d'Études sur les Énergies. The particular focus of the presentation was nuclear power but reference was also made to possible plans to build a windfarm near the Écrehous.
- (ii) In October 2003 the Island Authorities wrote to the Department of Constitutional Affairs (DCA) raising several issues of concern to the Island Authorities in relation to the proposed development.
- (iii) In February 2004, the French Government put out an invitation to tender for proposals for a national windfarm project. The project involves the building of several windfarms for which sites are to be chosen. One possible location is the area off the Écrehous reef.
- (iv) On 27th April 2004 the DCA forwarded a response to the Island Authorities' letter received through official channels from the French Ministry of Foreign Affairs. This outlined the proposed timetable and criteria for accepting tenders, and the statutory duty of the French Government to consult after the opening of a public enquiry.
- (v) On 1st July 2004 the Island Authorities wrote to the DCA noting that confirmation had been received from the French Ministry of Foreign Affairs that both the United Kingdom and French governments have international obligations under the Convention on Environmental Impact Assessment in a Transboundary Context (the "ESPOO" Convention) and the Convention for the Protection of the Marine Environment of the North East Atlantic (the "OSPAR" Convention). The Island Authorities confirmed that they would wish to participate fully in any consultation process.
- (vi) On 5th November 2004, the Conseil Général de la Manche informed the Island Authorities of a decision recorded by the Assemblée Départementale on 6th October 2004. The Assemblée requests that the Écrehous project be withdrawn and regrets that sufficient opportunity to comment has not been granted to interested parties in the area.

Most recently, States Members, the public and officers of the relevant departments have received a presentation

by the company that is currently tendering to carry out the proposed development off Saint-Remy-des-Landes. This has provided the opportunity to seek more detailed information on the proposals and, to some extent, moderated some of the initial public concern. Following the presentations, there was a measure of public support for the concept of environmentally sustainable energy production by windfarms. However, there remain some important issues that have yet to be resolved, as detailed below.

Current concern

The tender period has now closed for potential developers of offshore windfarms in a number of locations around the French coast, and it is now understood that a technical proposal will be made in France on 15th February 2005 as to the most suitable sites for development.

Further approvals will, however, be required from the French authorities, following an environmental impact assessment and a public enquiry in France. These include authorisation to generate electricity for the national grid, planning consent to develop the site and permission to lease a section of the seabed.

Although the proposed site off the Écrehous Reef is outside Jersey's territorial waters, its proximity to the Island's territorial limits means that there is likely to be a transboundary impact should the development go ahead. It is the contention of the Island Authorities that they should be afforded the opportunity to contribute to the environmental impact assessment and to consult on the proposals with local interested parties and thereafter submit their conclusions to the French Government before a final decision is made with regard to the proposed development.

Issues for consideration

The reasons put forward for concern include the possible damage to the marine environment, the visual intrusion of the wind turbines, noise produced by the turbine blades, interference with aviation radar and consequent risks to air traffic safety, possible economic effects on the fishing industry and hazards for maritime navigation.

Following meetings with the potential developers, the concerns about possible damage to the natural environment have been to some extent addressed. Evidence from other similar offshore developments has not demonstrated significant harm arising for the marine flora and fauna, or birds in the vicinity of the turbines. If anything, there is evidence that marine life may be enhanced by the submarine structures and 50-metre exclusion areas around each turbine. The potential developers have, in consultation with local ornithological groups, taken care to observe the existing migratory bird routes and have revised the proposed windfarm location accordingly. Decommissioning arrangements for the windfarm are also a statutory obligation for which appropriate funding and environment remediation plans are required.

Proximity of a windfarm to Les Écrehous was also a concern, particularly with regard to the sensitivity of the unique environment of this proposed Ramsar site. As a result, the developers have proposed re-locating the development further south, to a position some 10 kilometres (km) from Les Écrehous and 20 km from Jersey's south-east coast.

The proposed relocation of the windfarm site would also remove it from the usual routes for maritime navigation, both for private boats and small passenger vessels, between Jersey and Carteret or Portbail.

Whilst there were concerns about fishing, following discussion with Jersey fishermen it is considered unlikely that the proposed location would have any significant impact on the types of fishing activities currently carried out in the area.

The level of noise produced by the windfarm, estimated to be about 50 decibels at the base of a turbine when operating, is not considered to be a significant issue. At a distance of a few km, the noise would be dissipated substantially and, when the turbines are operating, their noise is masked by the ambient sea and wind noise.

The most significant of the remaining concerns are described below –

- (a) The actual scale of the proposed windfarm is considerable. It is understood to consist of a plan to generate 80MW of power, from 20 to 23 wind turbines with a hub height at 90 metres above mean sea level, and rotor blades a further 60 metres in length.

It is considered that a development of this scale would have a significant visual impact, even at a distance of 20 km from Jersey. The wind turbines would be visible during the day and especially at night due to illumination in an area that is largely free of light pollution.

- (b) The possible effects on aviation are of particular concern, due to the height of the turbines which would clearly be a hazard to aircraft flying at low level, and would require a restriction area to prevent collision. The turbines would need to be conspicuously lit with flashing strobe lights for safety reasons.

There could be serious effects on 2 important aeronautical radars, located on the northern cliffs of Jersey and in direct 'line of sight' of the proposed windfarm installation. These radars serve Jersey and Guernsey airports and also the Channel Island Control Zone, the French national radar network, Réseau de Télécommunication de la Navigation Aérienne, and the London Terminal and Area Control Centres at West Drayton and Swanwick.

Radar reflections from the windfarm towers and rotating turbine blades are certain to interfere to some extent with the primary radar, which has a range of 80 nautical miles, and may produce reflected or distorted radar images together with masking some low-flying aircraft in the secondary radar system, range 256 nautical miles. The secondary radar antenna is tilted down specifically to enhance the detection of targets at low altitude and, in the absence of any ground terrain to absorb incident radar energy and the probability of specular reflections from the water, this is likely to compound the problems. The Airport authorities would need to take considerable measures, although it is uncertain what these could be, to ensure aviation safety is not jeopardized.

If the windfarm development was to proceed, extensive, and probably costly, research and modelling would be required by the airport authorities, radar systems suppliers and the windfarm installers to identify the magnitude of these air traffic problems and to quantify the effectiveness of any amelioration proposals. There is no single simple software solution to remove these deleterious effects.

Conclusion

The States are asked to note that both the United Kingdom and French Governments have international obligations under the Convention on Environmental Impact Assessment in a Transboundary Context (the "Espoo Convention"). The proposal to construct an offshore windfarm at a location near Saint-Remy-des-Landes is considered to be a development that may have a significant adverse transboundary impact on Jersey, and is within the scope of that Convention.

The States are asked to agree that the French Government should be requested to consult with the Island Authorities on the proposals before any final decision is taken on the development of a windfarm in this area.