

STATES OF JERSEY



PROPOSED GOVERNMENT PLAN 2023- 2026 (P.97/2022): TWENTY-SECOND AMENDMENT

GST ON SANITARY PRODUCTS

Lodged au Greffe on 28th November 2022
by Deputy L.V. Feltham of St. Helier Central
Earliest date for debate: 13th December 2022

STATES GREFFE

PROPOSED GOVERNMENT PLAN 2023-2026 (P.97/2022):TWENTY-
SECOND AMENDMENT

PAGE 2, PARAGRAPH (i) –

After the words “Appendix 3 to the Report” insert the words –

“, except that, on page 37, the words “The wider scheme, which was noted in the mini-budget replaces and improves the commitment made by the Assembly in P.66/2022”, should be substituted with the following words, “The Assembly’s decision made to exempt all menstrual sanitary products from GST will however be respected unless a specific proposition rescinding that decision is brought forward and adopted by the Assembly”

DEPUTY L.V. FELTHAM

Note: After this amendment, the proposition would read as follows –

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

to receive the Government Plan 2023–2026 specified in Article 9(1) of the Public Finances (Jersey) Law 2019 (“the Law”) and specifically –

- (a) to approve the estimate of total States income to be paid into the Consolidated Fund in 2023 as set out in Appendix 2 – Summary Table 1 to the Report, which is inclusive of the proposed taxation and impôts duties changes outlined in the Government Plan, in line with Article 9(2)(a) of the Law;
- (b) to approve the proposed Changes to Approval for financing/borrowing for 2023, as shown in Appendix 2 – Summary Table 2 to the Report, which may be obtained by the Minister for Treasury and Resources, as and when required, in line with Article 9 (2)(c) of the Law, of up to those revised approvals;
- (c) to approve the transfers from one States fund to another for 2023 of up to and including the amounts set in Appendix 2 – Summary Table 3 in line with Article 9(2)(b) of the Law;
- (d) to approve each major project that is to be started or continued in 2023 and the total cost of each such project and any amendments to the proposed total cost of a major project under a previously approved Government Plan, in line with Article 9(2)(d), (e) and (f) of the Law and as set out in Appendix 2 - Summary Table 4 to the Report;
- (e) to approve the proposed amount to be appropriated from the Consolidated Fund for 2023, for each Head of Expenditure, being gross expenditure less estimated income (if any), in line with

Articles 9(2)(g), 10(1) and 10(2) of the Law, and set out in Appendix 2 – Summary Tables 5(i) and (ii) of the Report;

- (f) to approve the estimated income, being estimated gross income less expenditure, that each States trading operation will pay into its trading fund in 2023 in line with Article 9(2)(h) of the Law and set out in Appendix 2 – Summary Table 6 to the Report;
- (g) to approve the proposed amount to be appropriated from each States trading operation’s trading fund for 2023 for each head of expenditure in line with Article 9(2)(i) of the Law and set out in Appendix 2 – Summary Table 7 to the Report;
- (h) to approve the estimated income and expenditure proposals for the Climate Emergency Fund for 2023 as set out in Appendix 2 – Summary Table 8 to the Report; and
- (i) to approve, in accordance with Article 9(1) of the Law, the Government Plan 2023-2026, as set out at Appendix 3 to the Report, except that, on page 37, the words “The wider scheme, which was noted in the mini-budget replaces and improves the commitment made by the Assembly in P.66/2022”, should be substituted with the following words, “The Assembly’s decision made to exempt all menstrual sanitary products from GST will however be respected unless a specific proposition rescinding that decision is brought forward and adopted by the Assembly”.

REPORT

The purpose of this amendment is to ensure that a proposed change being made by the Council of Ministers to a previous decision of the States Assembly goes through due process. This is not an argument about whether Goods and Services Tax (GST) should be removed on menstrual sanitary products, that would be a matter for a second debate on the topic once the rescindment proposition is brought before the Assembly.

G.S.T. on Menstrual Sanitary Products ([P.66/2022](#)) was lodged au Greffe on 10th March 2022 by the then Senator Moore. It was adopted by the States Assembly on 28th April 2022 by 26 votes to 16 with one abstention.¹ The current wording in the Proposed Government Plan 2023-2026 ([P.97/2022](#)) states that the Government will not implement this decision.

Having revisited the Mini Budget ([P.80/2022](#)) it is noticeable that the Council of Ministers may consider that the Assembly has already approved the rescinding of P.66/2022. However it is apparent that this is not the case. The plan to replace the removal of GST on sanitary products with a free period product scheme was not included in the main proposition paragraphs, nor was the agreement of the overall planned schemes within the accompanying report. Indeed the planned replacement scheme was only noted in small part of the overall document, with 3 short paragraphs of text within a 3200-word report.

Furthermore, the planned scheme was only briefly mentioned by the Chief Minister in her opening remarks during the debate of P.80/2022, and received no further comment.² The Chief Minister's remarks only outlined shortly that a replacement scheme was being devised and the Treasury Official's work to form zero-rating on sanitary products following the previous Assembly's decision had been halted, not that P.66/2022 would be formally rescinded.

Paragraph (i) of P.97/2022 does specifically ask the Assembly to decide to approve its appendix 3 (Government Plan 2023-26). Within the more complex context of the Government Plan and its approval process, many members may not realise that in adopting the proposition as it stands, they will also be approving what is in effect a rescindment of a previous decision made by the Assembly. This would be based upon a single paragraph within the 113-page proposition.³ Indeed there may be other, unnoticed examples of this within P.97/2022.

This is a risky precedent to set at the outset of the new Council of Ministers' term, as it does not provide sufficient transparency or rigour in determining if the Assembly's previous decision should be rescinded.

Standing Order 23 States:

Additional requirement for proposition to rescind earlier decision

A proposition that the States rescind an earlier decision to adopt a proposition cannot be lodged unless it is –

(a) signed by at least 3 members of the States, in addition to the proposer; and

¹ <https://statesassembly.gov.je/Pages/Votes.aspx?VotingId=6837>

² [https://statesassembly.gov.je/AssemblyHansard/2022/2022.09.20%20States%20-%20edited%20\(LL\).pdf](https://statesassembly.gov.je/AssemblyHansard/2022/2022.09.20%20States%20-%20edited%20(LL).pdf)

³ <https://statesassembly.gov.je/assemblypropositions/2022/p.97-2022.pdf#page=37>

(b) accompanied by a report setting out why the proposer considers that the proposition should be adopted.

I have requested further advice on the implications of the approval of the Government Plan on the rescindment of P.66/2022, however noting lodging deadlines this amendment seeks to ensure that the Assembly is certain that Standing Order 23 is being applied correctly in this instance.

Financial and manpower implications

There are no financial or manpower implications arising from this amendment. This amendment seeks to ensure that due process is followed when rescinding an earlier decision of the Assembly.