

# STATES OF JERSEY



## INSOLVENCY: TEMPORARY SCHEME FOR COMPENSATORY PAYMENT – EXTENSION

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Lodged au Greffe on 12th May 2009  
by Deputy G.P. Southern of St. Helier

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STATES GREFFE

## **PROPOSITION**

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

- (a) to refer to their Act dated 25th March 2009 in which they requested the Minister for Social Security to establish an easily accessible and well-publicised system within the Social Security Department to deliver payments on a similar basis to all Jersey workers made redundant by insolvency from 4th February 2009, and to maintain this system of payments until an Insolvency Scheme was in place; and
- (b) to request the Minister to extend the scheme (details of which were presented to the States by the Minister on 29th April 2009) to enable the Minister, in consultation with the Viscount, to use discretion to make payments to workers who have been made redundant without the payment of statutory notice by businesses that have stopped trading even if the businesses have not yet been declared insolvent.

DEPUTY G.P. SOUTHERN OF ST. HELIER

## REPORT

When the Assembly endorsed my propositions P.9/2009 and P.34/2009 to enable workers made redundant through insolvency to receive support through payments in lieu of statutory notice, the Social Security Minister reacted with commendable speed in bringing forward his temporary scheme outlined in R.44/2009 and presented to the States on 29th April 2009.

One of the major factors that influenced members, I believe, was the need for immediate support to be made available. Members recognised that, in the absence of redundancy payments in Jersey, the complexities involved in ex-employees seeking compensation through a court or tribunal process which might take months would be unsatisfactory.

In P.34/2009, the report stated this principle clearly.

It was clear to many in the Assembly that the vote in favour of P.9/2009 (Woolworths employees: payment of statutory notice periods), was based on 2 factors –

- (a) that redundancies through insolvency were occurring;
- (b) that financial support was required to compensate those made redundant **in a timely manner**.

The Minister's Report R.44/2009 also reinforced this issue –

*“Time has been of the essence in drawing up this temporary insolvency scheme, which is designed to pay compensatory statutory notice pay to employees where their employer is insolvent.”*

*“As well as avoiding unnecessary delay, another priority has been to design a scheme that is easily accessible to those submitting a claim and that pays out relatively quickly to those who qualify.”*

*“To incentivise people to return to work as swiftly as possible, all those who qualify will receive up to 4 weeks of any compensatory notice pay entitlement – with no reductions. This removes any disincentive to find work quickly.”*

*“Prompt payment is another key aspect of this scheme. In the UK, any payment in lieu of notice is only made after the end of the notice period (up to 12 weeks) when any earnings during that period have been established. Under this temporary scheme, eligible employees will not have to wait unduly for their notice payment.”*

In theory then, the temporary scheme should be able to provide timely and prompt assistance to employees made redundant as it was designed to do. However, in the case of Collas & Le Sueur Ltd., whose employees were made redundant 5 weeks ago, no payments have yet been made.

It seems fairly clear that the company has ceased trading and will not recommence trading in the future, and yet formal insolvency proceedings have yet to be set in motion. My understanding of the insolvency process is that the directors of the company must seek an orderly winding up or '*en désastre*' ruling from the court in order to resolve their debt problems with creditors. This requires the directors to make some effort to make an inventory of its assets and debts before going to court. This often may take some considerable time. If creditors were to seek the winding up of the company through the courts there is a charge or indemnity to be paid towards the court and Viscount's costs. This makes many creditors reluctant to start proceedings. In either case, the process can remain stalled for some time.

It appears that the scheme devised by the minister of Social Security has failed in its first test to deliver what the States has requested. This proposition is designed to give the minister a degree of flexibility to enable him to properly support redundant workers with payments in lieu of notice in a timely manner, whilst insolvency proceedings are resolved.

### **Financial and manpower implications**

There are no calculable additional financial and manpower implications.