

STATES OF JERSEY ORDER PAPER

Tuesday 24th June 2003

A. COMMUNICATIONS BY THE BAILIFF

B. TABLING OF SUBORDINATE LEGISLATION

C. MATTERS RELATING TO COMMITTEE MEMBERSHIP

The President of the Economic Development Committee has given notice that he will, in accordance with Article 28(2)(b) of the States of Jersey Law 1966, as amended, ask the States to agree that the Economic Development Committee should, henceforth, consist of the President and five other elected members of the States.

Nomination of the Deputy of St. Mary as a member of the Economic Development Committee.

D. PRESENTATION OF PAPERS

(a) Papers for information

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

States of Jersey Law 1966, as amended: delegation of functions – Estates Management. R.C.32/2003.
Health and Social Services Committee.

Connex: the early period of the local bus service. R.C.33/2003.
Environment and Public Services Committee.

Les Amarrages, Grève d'Azette, St. Clement: deed of arrangement (P.71/2003) – comments. P.71/2003. Com.
Finance and Economics Committee.

Public and Private Sector Housing Rental Subsidy Schemes (P.74/2003): addendum to report. P.74/2003. Add.
Housing Committee.

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

17th June 2003

Lord Portsea Gift Fund: report for 2002 and accounts for 1998 – 2002. R.C.31/2003.
Education, Sport and Culture Committee.

Draft Act annulling the Medicines (Kava-kava) (Prohibition) (Jersey) Order 2003 (P.69/2003): comments. P.69/2003. Com.
Health and Social Services Committee.

(b) Notification of Standing Order decisions

18th June 2003

Decisions under delegated functions.
Finance and Economics Committee.

(c) Notification of acceptance of tenders

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

Machinery of Government: Establishment of Scrutiny Panels and Public Accounts Committee (P.79/2003) – amendments. <i>Senator S. Syvret.</i>	P.79/2003. Amd.
Draft Parish Rate (Jersey) Law 200-. <i>Connétable of St. Martin.</i>	P.82/2003.
Draft Terrorism (Jersey) Law 2002 (Appointed Day) Act 200-. <i>Home Affairs Committee.</i>	P.83/2003.
Draft Terrorism (Enforcement of External Orders) (Jersey) Regulations 200-. <i>Home Affairs Committee.</i>	P.84/2003.
Jersey Heritage Trust and Public Records (Jersey) Law 2002 – transfer of functions to the Education, Sport and Culture Committee. <i>Finance and Economics Committee.</i>	P.85/2003.

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

17th June 2003

Draft Employment (Jersey) Law 200- (P.55/2003): amendments. <i>Employment and Social Security Committee.</i>	P.55/2003. Amd.
Official Report of the States Assembly and its Committees ('Hansard'): Introduction. <i>Privileges and Procedures Committee.</i>	P.81/2003.

(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

THE STATES are asked to agree that the following matters lodged “au Greffe” be considered at their next meeting on 8th July 2003 -

Population policy: provision of information and alternatives. Lodged: 15th April 2003. <i>Senator S. Syvret.</i>	P.40/2003.
Draft Employment (Jersey) Law 200-. Lodged: 6th May 2003. <i>Employment and Social Security Committee.</i>	P.55/2003.
Draft Employment (Jersey) Law 200- (P.55/2003): amendments. Lodged: 17th June 2003. <i>Employment and Social Security Committee.</i>	P.55/2003. Amd.
Housing Regulations: reductions in qualifying periods. Lodged: 27th May 2003. <i>Deputy of St. Martin.</i>	P.73/2003.
Public and Private Sector Housing Rental Subsidy Schemes. Lodged: 3rd June 2003. <i>Housing Committee.</i>	P.74/2003. (re-issue)
Public and Private Sector Housing Rental Subsidy Schemes (P.74/2003): addendum to report. Presented: 24th June 2003.	P.74/2003. Add.

Housing Committee.

Benefits paid by the Housing and Employment and Social Security Committees: protection. P.75/2003.
Lodged: 10th June 2003.
Deputy G.P. Southern of St. Helier.

Training and Employment Partnership: disbandment. P.76/2003.
Lodged: 10th June 2003.
Economic Development Committee.

Philips House, Victoria Street, St. Helier: sale to Les Vaux Housing Trust. P.77/2003.
Lodged: 10th June 2003.
Housing Committee.

Draft Law Revision (Jersey) Law 200-. P.78/2003.
Lodged: 10th June 2003.
Finance and Economics Committee.

Draft Parish Rate (Jersey) Law 200-. P.82/2003.
Lodged: 24th June 2003.
Connétable of St. Martin.

Draft Terrorism (Jersey) Law 2002 (Appointed Day) Act 200-. P.83/2003.
Lodged: 24th June 2003.
Home Affairs Committee.

Draft Terrorism (Enforcement of External Orders) (Jersey) Regulations 200-. P.84/2003.
Lodged: 24th June 2003.
Home Affairs Committee.

Jersey Heritage Trust and Public Records (Jersey) Law 2002 – transfer of functions to the Education, Sport and Culture Committee. P.85/2003.
Lodged: 24th June 2003.
Finance and Economics Committee.

F. PRESENTATION OF PETITIONS

G. QUESTIONS

Deputy J.L. Dorey of St. Helier will ask a question of the President of the Home Affairs Committee regarding matters relating to a Home Office White Paper.

Deputy R.G. Le Hérissier of St. Saviour will ask a question of the President of the Policy and Resources Committee regarding the functions of the Statistics User Group.

Senator P.V.F. Le Claire will ask a question of the President of the Housing Committee regarding persons with 15 years residency.

Senator E.P. Vibert will ask a question of the President of the Finance and Economics Committee regarding income tax receipts from Jersey 1(1)(k) residents.

Deputy R.G. Le Hérissier of St. Saviour will ask a question of the President of the Housing Committee regarding 1(1)(k) applications under the Housing Regulations.

Deputy G.P. Southern of St. Helier will ask a question of the President of the Finance and Economics Committee regarding the 2002 States accounts.

Deputy G.C.L. Baudains of St. Clement will ask a question of the President of the Environment and Public Services Committee regarding main road white line painting.

Deputy G.P. Southern of St. Helier will ask a question of the President of the Finance and Economics Committee regarding TV licences.

Senator E.P. Vibert will ask a question of the President of the Policy and Resources Committee regarding personnel savings arising from the implementation of a ministerial government.

Deputy G.C.L. Baudains of St. Clement will ask a question of the President of the Home Affairs Committee regarding access for emergency vehicles in St. Helier.

Deputy G.P. Southern of St. Helier will ask a question of the President of the Housing Committee regarding his presidency.

Deputy G.P. Southern of St. Helier will ask a question of the President of the Housing Committee regarding the proposed withdrawal of rent subsidy for breaches of tenancy.

Senator E.P. Vibert will ask a question of the President of the Environment and Public Services Committee regarding the Island bus service.

H. MATTERS OF PRIVILEGE

I. PERSONAL STATEMENTS

J. COMMITTEE STATEMENTS

The President of the Privileges and Procedures Committee will make a statement regarding the ongoing work of that Committee in connexion with government reform.

K. PUBLIC BUSINESS

Belle Vue, La Route des Quennevais, St. Brelade: proposed exchange and counter-exchange of land. P.58/2003.
Lodged: 6th May 2003.
Environment and Public Services Committee.

Belle Vue, La Route des Quennevais, St. Brelade: proposed exchange and counter-exchange of land (P.58/2003) – comments. P.58/2003.
Presented: 10th June 2003. Com.
Finance and Economics Committee.

States approval for new “user pays” charges. P.63/2003.
Lodged: 13th May 2003.
Senator S. Syvret.

States approval for new “user pays” charges (P.63/2003): P.63/2003.
amendments. Amd.
Finance and Economics Committee.
(attached).

Draft Public Elections (Jersey) Regulations 200-. P.64/2003.
Lodged: 20th May 2003.
Legislation Committee.

Draft Matrimonial Causes (Amendment No. 11) (Jersey) Law 200-. P.65/2003.
Lodged: 20th May 2003.
Legislation Committee.

Draft Criminal Justice (Suspension of Prison Sentences) (Jersey) Law 200-. P.66/2003.
Lodged: 20th May 2003.
Legislation Committee.

Draft Housing (General Provisions) (Amendment No. 19) (Jersey) P.67/2003.

Regulations 200- Lodged: 20th May 2003. <i>Housing Committee.</i>	
Amy's House, La Route de Ste. Catherine, St. Martin: proposed sale. Lodged: 20th May 2003. <i>Housing Committee.</i>	P.68/2003.
Amy's House, La Route de St. Catherine, St. Martin: proposed sale (P.68/2003) - comments. Presented: 10th June 2003. <i>Finance and Economics Committee.</i>	P.68/2003. Com.
Draft Act annulling the Medicines (Kava-kava) (Prohibition) (Jersey) Order 2003. Lodged: 20th May 2003. <i>Deputy G.W.J. de Faye of St. Helier.</i>	P.69/2003.
Draft Act annulling the Medicines (Kava-kava) (Prohibition) (Jersey) Order 2003 (P.69/2003): comments. Presented: 17th June 2003. <i>Health and Social Services Committee.</i>	P.69/2003. Com.
Les Amarrages, Grève d'Azette, St. Clement: deed of arrangement. Lodged: 27th May 2003. <i>Environment and Public Services Committee.</i>	P.71/2003.
Les Amarrages, Grève d'Azette, St. Clement: deed of arrangement (P.71/2003) – comments. Presented: 24th June 2003. <i>Finance and Economics Committee.</i>	P.71/2003. Com.
Ecology Fund: appointment of Chairman. Lodged: 27th May 2003. <i>Environment and Public Services Committee.</i>	P.72/2003.

D.C.G. FILIPPONI
Acting Greffier of the States

19th June 2003

**NOTIFICATION OF STANDING ORDER DECISIONS -
FINANCE AND ECONOMICS COMMITTEE
(delegated functions)**

18th June 2003

- (a) as recommended by the Education, Sport and Culture Committee, the amendment of the Deed of Arrangement to be entered into with Mr. Alan O'Prey and Mrs. Elizabeth O'Prey, née McNamara, in respect of access rights to enable the site of Springfield Cottage, Springfield Lane, St. Helier to be redeveloped as two semi-detached dwellings such that the dwellings to be constructed were to be of no more than 1,300 square feet and 1,600 square feet (habitable floor area) respectively, for a consideration of £6,000 plus the payment of the public's reasonable legal and professional fees and on the terms and conditions set out in a report, dated 23rd May 2002, of the Director of Property Services;
- (b) as recommended by the Environment and Public Services Committee, the entering into of a Deed of Arrangement with Mr. Jack Terence Kelly, owner of the property known as Prairie Lodge, Les Mielles de Morville, St. Ouen (currently in the process of being sold to Mr. Christopher Peter Dubras), in order to ratify the boundary with adjacent public land (by means of agreement of new tie measurements to the relevant boundary stone), on the basis that Mr. Kelly would be responsible for all legal fees incurred by the public arising from this transaction;
- (c) as recommended by the Harbours and Airport Committee, the lease to Servisair (Jersey) Limited of office accommodation situated in the Passenger Pier, Jersey Airport (Letting No. B173A), for the period from 1st May 2003, to 31st March 2006, at an initial annual rent of £1,139.17 (representing a rate of £11.87 a square foot), to be reviewed on 1st April 2004, and 1st April 2005, in line with the Jersey Retail Price Index;
- (d) as recommended by the Harbours and Airport Committee, the sub-lease to Aurigny Air Services Limited of a ticket desk on the ground floor of the John Le Fondré Departures Hall, Jersey Airport, for a period of three years from 1st April 2003, at an annual rent of £5,705.72 (representing the current standard unit charge), to be reviewed on 1st April 2004, and 1st April 2005, in line with the Jersey Retail Price Index;
- (e) as recommended by the Harbours and Airport Committee, the lease to Aurigny Air Services Limited of the undermentioned premises situated at Gate Lounge 14 in the Passenger Pier, Jersey Airport—
- office (measuring 120 square feet) - Letting No. AP01;
office (measuring 138 square feet) - Letting No. AP02;
staff room (measuring 132 square feet) - Letting No. AP03;
store room (measuring 24 square feet) - Letting No. AP04;
customer services desk (measuring 60 square feet) - Letting No. AP05;
- for a period of three years from 1st April 2003, at an annual rent of £5,626.38 (representing a rate of £11.87 a square foot), subject to rent reviews on 1st April 2004, and 1st April 2005, in line with the Jersey Retail Price Index;
- (f) as recommended by the Environment and Public Services Committee, the renewal of the lease to Mr. Richard Hugh Le Boutillier of Field No. 1489, Bellozanne Valley, St. Helier, for a period of three years from 1st January 2003, at an annual rent of £185, on the basis that the tenant would use the field only for *bona fide* agricultural purposes and would weed, tend, manure and cultivate it in accordance with the practice of good husbandry and would be responsible for maintaining, preserving and protecting any hedges, trees, banks and to ensure that livestock grazing on the land was adequately contained by fencing of a type approved by the lessor, and with each party to be responsible for its own legal costs arising from this transaction, with no deposits to be paid;
- (g) as recommended by the Housing Committee, the entering into of a Deed of Arrangement with the Marett Court Owners Association in order to facilitate the demolition of the existing party wall forming the northerly boundary of the former Sunshine Hotel site towards Marett Court, Marett Road, St. Helier, on the basis of a report, dated 29th May 2003, of the Director of Property Services, with the public to be responsible for meeting the Association's legal costs arising from this transaction;
- (h) as recommended by the Health and Social Services Committee, the renewal of the lease from Mrs. Evelyn Hefford, née Hervé, of the three-bedroom 'j' category property known as 17 Court Drive, La Route de la

Haule, St. Lawrence, for occupation by a Staff Grade in the Orthopaedics Department, General Hospital, for a period of two years from 1st August 2003, at an annual rent of £16,500, on the basis that each party was to be responsible for the payment of its own legal fees arising from this transaction; and,

(i) as recommended by the Environment and Public Services Committee, the purchase from the undermentioned companies of land to provide a footpath (approximately 1.4 metres wide) across the front of the properties indicated –

(i) Home Lands Limited - “Ethlwynn”, St. Peter; and,

(ii) Ibis Lodge Limited - “Ibis Lodge”, St. Peter;

on the basis that the public would pay both companies £1 each in relation to the acquisition of the land, and also the reasonable legal costs of both companies arising from this transaction. In addition, a sum of £3,500 was also to be paid to Team Management, Ibis Lodge Limited in respect of accommodation works (including a new wall) which had already been undertaken by the developer.

QUESTION PAPER

(See Item G)

Deputy J.L. Dorey of St. Helier will ask the following question of the President of the Home Affairs Committee –

“A recent Home Office White Paper entitled ‘Respect and Responsibility – taking a stand against anti-social behaviour’, Cm 5778 published in March 2003, has affirmed the UK Government’s intention to -

- (i) control excessive noise at night by granting Environmental Health Officers the power to shut down with immediate effect establishments that persistently create noise nuisance;
- (ii) wholeheartedly support a Private Member’s Bill that will address the abusive use of fireworks;
- (iii) tackle anti-social behaviour in and around pubs, clubs and entertainment outlets by granting the Police the power to close licensed premises within a specified geographical area; and,
- (iv) give the Police and local residents the power to call for a review of a premises licence at any time, which could lead to a range of measures including revocation, suspension or modification of the conditions of the licence.

On each of these issues, does the Home Affairs Committee have plans to adopt a similar approach in the Island, and if so, on what timescale?”

Deputy R.G. Le Hérisssier of St. Saviour will ask the following question of the President of the Policy and Resources Committee –

“Would the President advise members whether the Committee will be reviewing the functions of the Statistics User Group established under P.142/99, adopted by the States on 17th November 1999, in the light of the inaccuracies announced in the calculation of the last House Price Index, with a view to strengthening procedures, if necessary?”

Senator P.V.F. Le Claire will ask the question of the President of the Housing Committee –

“Would the President inform members whether the Committee has information on the number of persons who have been resident for 15 years but who have not yet qualified under the Housing Regulations, and, if so, the numbers involved?”

Senator E.P. Vibert will ask the question of the President of the Finance and Economics Committee -

“Would the President inform members –

- (a) of the number of Jersey residents, to whom consent to purchase property has been given under Regulation 1(1)(k) of the Housing Regulations on economic grounds, who paid tax in the year 2000 and 2001 and the total amount of this tax;
- (b) of the amount of tax paid by companies owned by such residents in 2000 and 2001;
- (c) as to what checks and controls are exercised over such residents once they have settled in Jersey to ensure that they continue to make a significant contribution to Jersey’s economy in view of this being one of the requirements to be satisfied prior to such consent being granted; and,
- (d) of the steps that have been take to ensure that tax avoidance and tax evasion are curtailed since the publication of the second report of the Fiscal Review Working Group, (R.C. 37/99), presented to the States on 28th September 1999, which highlighted ‘*the loopholes discovered by the tax avoidance industry*’ in Jersey.

Deputy R.G. Le Hérisssier of St. Saviour will ask the following question of the President of the Housing

Committee –

“Would the President inform members what criteria the Committee applies in the consideration of applications under Regulation 1(1)(k) of the Housing Regulations where the applicant has criminal convictions, and, could he identify which categories of offence would lead to a refusal?”

Deputy G.P. Southern of St. Helier will ask the following question of the President of the Finance and Environment Committee –

On 20th May 2003, the Committee announced that a £12 million surplus, which replaced the predicted deficit of £7 million on the 2002 accounts, ‘has already been fully accounted for in the most up-to-date forecasts, so does not represent additional funds for future expenditure.’

Will the President explain to members in what way this has been fully accounted for?

Deputy G.C.L. Baudains of St. Clement will ask the following question of the President of the Environment and Public Services Committee –

“In answer to questions on 13th May 2003, the President advised that main road white line painting was work of a specialised nature.

Would the President inform members –

- (a) whether up to four vehicles can be engaged at the same time for any one road marking job, and, if so, the reasons for this?
- (b) whether cost per mile comparisons have ever been made with other jurisdictions? and,
- (c) what criteria makes this work of a specialist nature, and whether the Committee has received any expressions of interest from local contractors, and, if so, whether the Committee will now be seeking tenders for the work?”

Deputy G.P. Southern of St. Helier will ask the following question of the President of the Finance and Economics Committee –

“In a letter sent to members dated October 2002, regarding Age Concern, the then President stated -

‘I have pledged to Daphne Minihane that I will put the issue of TV licences for pensioners on the agenda again, no later than March of next year.’

Will the President please indicate to members whether this matter has yet been placed on a Committee agenda, and, if so, whether he proposes to bring a proposition to the States?”

Senator E.P. Vibert will ask the following question of the President of the Policy and Resources Committee –

“Would the President identify any savings to date in public service personnel and the value of these savings as a result of the re-organisation in preparation for the final stage of implementing ministerial government?”

Deputy G.C.L. Baudains of St. Clement will ask the following question of the President of the Home Affairs Committee –

“Would the President inform members whether the issue of access for emergency vehicles arising from road alterations around St. Helier continues to exist and, if so, whether the Committee has made any representations to the Environment and Public Services Committee in this respect?”

Deputy G.P. Southern of St. Helier will ask the following question of the President of the Housing Committee –

“Following the outcome of the investigation and findings of the Data Protection Registrar of 15th May 2003, relating to a breach of the Data Protection (Jersey) Law 1987, would the President advise whether he will be considering his future position as President of the Housing Committee, and, if so, inform the Assembly whether he intends to resign and put his name forward for re-election to test the confidence of States members?”

Deputy G.P. Southern of St. Helier will ask the following question of the President of the Housing Committee –

“In the Housing Committee media release of 14th June 2003, the Committee proposes the withdrawal of rent subsidy for breaches of tenancy.

Can the President inform members –

- (a) under what circumstances such an action is envisaged? and
- (b) whether legal advice has been taken to confirm that such action is lawful, and, if not, the reasons why?”

Senator E.P. Vibert will ask the following question of the President of the Environment and Public Services Committee –

“Would the President advise the Assembly of the income from the Connex bus service for April and May 2003?”

STATES APPROVAL FOR NEW “USER PAYS” CHARGES (P.63/2003): AMENDMENTS

In the proposition, after the words “States Assembly”, add the following words “where the impact of such charge is estimated by the Committee concerned, having consulted with the Finance and Economics Committee, to raise income to the States which exceeds £250,000 in the first full year following the introduction of the charge.”

FINANCE AND ECONOMICS COMMITTEE

REPORT

The Finance and Economics Committee believes that it is necessary that any new and substantial means of raising additional revenues for the States should be the subject of debate by the States prior to its introduction. From that point of view, therefore, the Committee has no argument with the principle of Senator Syvret’s proposition.

The Committee does feel, however, that as a matter of practicalities the States should deal with significant financial matters only and States times should not be taken up with measures of an insubstantial nature. The opinion of what is deemed “significant”, of course, varies from Member to Member.

The Committee, in looking for a de minimis limit, originally considered a figure of one-tenth on one percent of States’ revenue – around £400,000. Recognising the sensitive nature of the subject in the minds of some Members, the Committee finally suggested an even lower figure and determined that measures estimated to yield £250,000 per annum or less *could* be deemed “insignificant” when compared with overall annual States income, which exceeds £400 million.

Acceptance of this amendment would not preclude any Committee from bringing such proposals to the States if it so wished. It would also not restrict the rights of any particular Member to question any revenue-raising measure or seek States determination on any question. Other safeguards also exist as many measures would require legislation in any event.

Senator Syvret’s proposition does not define a “user pays charge”. The Finance and Economics Committee also feels that the definition of a “user pays charge” needs clarification. For example, some of the proposals analysed as “user pays charges” in the current Fundamental Spending Review, would probably fall outside a strict definition of such a charge. An example is the proposed surcharge for late submission of Income Tax Returns. The Committee is working on tightening the definition for user pays for the future Fundamental Spending Review process.

The Committee feels that a “user pays charge” should be defined as one where the true cost of a service is sought to be partially or wholly recovered from the users of that service. It should not permit a charge in excess of the total costs of the service, such costs being calculated on Generally Accepted Accounting Principles (GAAP Accounting). There is (not unreasonably) no definition of a “user-pays charge” in the Senator’s proposition, but there really must be clarity in defining just what is meant by “user pays”.

The Finance and Economics Committee has agreed in principle that a more comprehensive definition of a “user pays charge”, and the proposed ‘de minimis’ level of £250,000, should be included in a revised Code of Direction No. 24 issued by the Finance and Economics Committee. The existing Code of Direction No. 24 is attached as a Appendix to this Report; a revised version will be issued shortly.

The Committee has now received responses from all Committees in respect of the 2004 Fundamental Spending Review process and is in a position to disclose that, in its opinion, there are nine examples in the projected 2004 Resource Plan which could be considered as new “user pays charges” which fall below the proposed £250,000 “de minimis” threshold, namely –

<u>Committee</u>	<u>Proposed New “User Pays Charge”</u>	<u>Amount</u> (£)
Policy and Resources	New charge to Parishes for I.T. Network	12,000

Environment and Public Services	New charge for attractions and walks	11,000
Economic Development Committee (Agriculture and Fisheries)	New laboratory charge	25,000
Economic Development Committee (Agriculture and Fisheries)	New farming advisory service charges	26,000
Economic Development Committee (Tourism)	New charge for reservation system	10,000
Home Affairs	New charge to Parishes for witness warning and victim notification	12,000
Home Affairs	New charge to Parishes for firearms registration background checks	31,000
Housing	New charge to issue consents for housing purchases	100,000
Housing	New administration charge to 99 year lease homeowners	12,000

If the States were to adopt Senator Syvret's proposition, a debate would be required on all of the above. The Committee considers that such decisions should remain within the remit of individual committees, but subject to the controls within the Code of Direction and Finance and Economics Committee approval, where required.

The Committee is considering the appropriateness of any other revenue raising proposals within the context of the forthcoming fiscal strategy policy. All significant new revenue raising proposals will continue to be the subject of full consultation.

The Committee expresses the hope that the States will regard this proposed amendment as an improvement on the substance of what Senator Syvret has intended. If approved, the amendment will tighten the approval process for all 'user pays' charges without undue bureaucracy.

This amendment should have no additional financial or manpower implications, but will save both Members' and officers' time that would otherwise be required preparing reports and debating such relatively minor issues.

CODE OF DIRECTION No. 24

INCREASES IN STATES FEES AND CHARGES

Introduction

- 1.1 This Code of Direction is issued under Article 27 of the Public Finances (Administration) (Jersey) Law 1967, as amended (hereinafter referred to as “the Law”).
- 1.2 The purpose of this Code is twofold –
- firstly, it intends to set the parameters within which States Committees review their fees and charges; and
 - secondly, it aims to meet the requirements of the States Anti-Inflation Strategy (P.125/2000).
- 1.3 The Anti-Inflation Strategy states that increases in States fees and charges should be limited to 2.5% per annum with compelling cases to be subject to the prior approval of the Finance and Economics Committee.
- 1.4 The aim of the States Anti-Inflation Strategy, as agreed by the States in September, 2000, is to bear down on inflation in the Island. It was recognised from the outset that, because of the wide-ranging involvement of the States in the Island’s economy, action on States fees and charges would need to be an important element of the Strategy.
- 1.5 Committees should when reviewing fees and charges, first thoroughly satisfy themselves that any increase is absolutely necessary and that there is absolutely no scope for either holding or reducing fees and charges through efficiency and productivity gains. There should be no presumption of automatic increases “in line with inflation” without this process having been demonstrably undertaken first.
- 1.6 The Anti-Inflation Strategy recognises both the need to address inflation and to promote the principle of “User Pays”. The report attached to the Anti-Inflation Strategy states –
- “It is recognised that there may be legitimate and compelling instances where an increase above 2.5 per cent is desirable. These may be, for example, for “user pays” reasons (i.e. if one particular group receiving a valuable service from the States is charged below cost, then that group is simply being subsidised by taxpayers generally) or in pursuit of health or environmental objectives, where the purpose of raising a charge may be to signal the relative undesirability of a given activity.”*
- The Finance and Economics Committee is well aware that these 2 issues may conflict. The Committee is determined that States funds are allocated to high priority “core” areas, which may mean that if lower priority or non-core services are to continue the full cost of service provision will have to be met by the user.
- 1.7 The procedures detailed in this Code apply to ALL States Committees – Trading as well as Non-Trading Committees for the time being. (However, it is intended that the Jersey Competition and Regulatory Authority (JCRA) will take over responsibility for monitoring the charges levied by the Incorporated Bodies.) The Code also relates to fees and charges which are governed by States Orders and Regulations.
- 1.8 **All** fees and charges whether directly reflected in the Island’s Retail Prices Index (RPI) or not, are covered by this Code.

- 1.9 Any proposal for the increase or introduction of a new charge which is effectively a duty or tax (for cross subsidy or other purposes) must be submitted to the Finance and Economics Committee for consideration. (Proposals of this nature undoubtedly need legislation and will therefore require comment from the Finance and Economics Committee).

2. Procedures to be followed

2.1 Annual Fee/Charge Increases of 2.5% or less

- (i) In the first instance Committees should be able to demonstrate that –
- they have actively reviewed all costs relating to a service; and
 - every effort is being made to control or reduce costs and improve productivity
- before an increase to a fee or charge is levied.
- (ii) The prior approval of the Finance and Economics Committee to increase an existing fee or charge WILL NOT be required where the average increase in the fee or charge does not exceed 2.5% per annum compounded.

2.2 Proposed Fee/Charge increases of more than 2.5% per annum

- (i) As in 2.1 (i) above Committees should, in the first instance be able to demonstrate that:-
- they have actively reviewed all costs relating to a service; and
 - every effort is being made to control or reduce costs and improve productivity
- before an increase to a fee or charge is levied.
- (ii) The prior approval of the Finance and Economics Committee WILL NOT be required where increases are calculated by reference to statute, or by a formula which has already received the approval of the States or the Finance and Economics Committee.
- (iii) Where a fee or charge increase exceeds 2.5% per annum it will be the responsibility of the requesting Committee to ensure that –
- the approval of the Finance and Economics Committee is gained before any increase is levied; and
 - the requesting Committee provides the necessary justification for the level of increase.
- (iv) The Finance and Economics Committee will delegate the task detailed in iii) to the Treasurer of the States where –
- requests do not need to be submitted to the States for their approval; and
 - requests relate to non-contentious issues;
 - Committees are able to demonstrate that they are increasing charges in order to fulfil the “User Pays” principle.

3. "User Pays" principle

- 3.1 It is recognised that there are instances where one particular group receives a valuable service from a States Committee at a charge which is below cost and they are, therefore, being subsidised by taxpayers generally. In these circumstances it is expected that Committees carefully consider whether there is a case for the user to meet either the full cost of a service or a greater proportion of the cost of service

provision. (When assessing the cost of providing a service Committees should ensure that all direct costs as well as overhead costs are taken into account.)

- 3.2 In the circumstances in 3.1 above Committees are requested to follow the procedures detailed in section 2.
- 3.3 There may be instances where a Committee decides to introduce or increase a charge in order to indicate the undesirability of a given activity on health or environmental grounds. For the avoidance of doubt this also relates to import duties. If it is intended that the charge purely covers the cost of service provision Committees will be expected to follow the procedures in Section 2 above. However, if the level of charge exceeds the cost of service provision this is effectively a tax and its potential imposition will need to be fully discussed with the Finance and Economics Committee.

4. States Leases and Rentals

- (i) The pricing policy in relation to lease and rentals charged by Committees should reflect market conditions. Where States owned land and property is "let" on the open market the charge should reflect market rates which may not necessarily conform to the 2.5% increase parameter.

5. Internal Recharges

- (i) Code of Direction No. 22 – “Guidance on the administration of internal recharging within the States of Jersey” should be followed where cross Committee charges are made. However, in the first instance Committees are not expected to increase any internal recharges by more than 2.5% per annum unless they are able to actively demonstrate to the Treasurer of the States that –
 - they have actively reviewed all costs relating to a service; and
 - every effort is being made to control or reduce costs and improve productivitybefore an increase to a fee or charge is levied and that the recharge is no more than the cost of providing the service.
- (ii) No Committee will be allowed to introduce a new internal recharge purely to meet its cash limit.
- (iii) It may be necessary to adjust both the charging and receiving Committees cash limits in certain circumstances where it is considered desirable to recognise the true cost of providing services to other departments.

The Treasurer of the States or his staff will be able to offer advice to Committees or their officers if required.

STATES TREASURY

May 2002