

STATES OF JERSEY



PROPOSED BUDGET (GOVERNMENT PLAN) 2025-2028 (P.51/2024): TENTH AMENDMENT

TERMINATION OF PREGNANCY (JERSEY) LAW 1997 AMENDMENTS WORKSTREAM

Lodged au Greffe on 8th November 2024
by the Health and Social Security Scrutiny Panel
Earliest date for debate: 26th November 2024

STATES GREFFE

PROPOSED BUDGET (GOVERNMENT PLAN) 2025-2028 (P.51/2024):
TENTH AMENDMENT

1 PAGE 4, PARAGRAPH (o) –

After the words “as set out in the Appendix to the accompanying Report” insert the words –

“except that in the section “Other Revenue Expenditure Growth Spending” on page 45 after the words “funding of In Vitro Fertilisation, recently approved by the Assembly” there should be inserted the following new paragraph –

“Funding for the Termination of Pregnancy (Jersey) Law 1997 Amendments workstream will be reviewed to ensure that both policy and law drafting resource for this workstream is prioritised by the Council of Ministers in the 2025 Legislative Programme and in order for amendments to the current outdated law to be lodged prior to the end of 2025.”

HEALTH AND SOCIAL SECURITY SRUTINY PANEL

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 2025 – 2028 (entitled “Budget 2025-2028”) 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 2025 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 2025, 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 approval amounts.
- (c) to approve the transfers from one States fund to another for 2025 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 a transfer from the Consolidated Fund to the Stabilisation Fund in 2025 of up to £25 million, subject to a decision of the Minister for Treasury and Resources based on the availability of funds in the Consolidated Fund as at 31st December 2024 in excess of the estimates provided in this plan, or from budgeted underspends identified before 31st December 2025.

- (e) to approve a transfer from the Consolidated Fund to the Agricultural Loans Fund in 2025 of up to £2 million, subject to a decision of the Minister for Treasury and Resources based on availability of funds in the Consolidated Fund as at 31st December 2024 in excess of estimates provided in this plan, or from budgeted underspends identified before 31st December 2025;
- (f) to approve each major project that is to be started or continued in 2025 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.
- (g) to approve the proposed amount to be appropriated from the Consolidated Fund for 2025, 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.
- (h) to approve the estimated income, being estimated gross income less expenditure, that each States trading operation will pay into its trading fund in 2025 in line with Article 9(2)(h) of the Law and set out in Appendix 2 – Summary Table 6 to the Report.
- (i) to approve the proposed amount to be appropriated from each States trading operation’s trading fund for 2025 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.
- (j) to approve the estimated income and expenditure proposals for the Climate Emergency Fund for 2025 as set out in Appendix 2 – Summary Table 8 to the Report.
- (k) to approve an updated and consolidated policy of the Strategic Reserve Fund as follows:

“The Strategic Reserve Fund, established in accordance with the provisions of Article 4 of the Public Finances (Jersey) Law 2005, is a permanent reserve only to be used:

- i. in exceptional circumstances to insulate the Island’s economy from severe structural decline such as the sudden collapse of a major Island industry or from major natural disaster.
- ii. if necessary, for the purposes of providing funding (up to £100 million) for the Bank Depositors Compensation Scheme established under the Banking Business (Depositors Compensation) (Jersey) Regulations 2009,

including to meet the States contribution to the Scheme and/or to meet any temporary cash flow funding requirements of the Scheme.

- iii. to support the development of future healthcare facilities and the borrowing costs for such work, in line with a financing strategy agreed by the Assembly;
 - iv. as a holding fund for any or all monies raised through external financing until required, and for any monies related to the repayment of debt raised through external financing used to offset the repayment of debt, as and when required; and
 - v. in accordance with Article 24 of the Public Finances (Jersey) Law 2019, where the Minister for Treasury and Resources is satisfied that there exists an immediate threat to the health or safety of any of the inhabitants of Jersey, to the stability of the economy in Jersey or to the environment, for which no other suitable funding is available.”
- (l) to approve the transfer to the Strategic Reserve of the amounts due as a result of the move from prior-year basis taxation after 31st December 2025, as and when these payments are received (estimated at £280 million).
- (m) in relation to the new Government Headquarters (office), to approve;
- a. the exercising of the option to acquire the new Government Headquarters (estimated at £91 million), by the Public of the Island, in line with the pre-agreed terms; and
 - b. the acquisition of the new Government Headquarters as an investment of the Social Security (Reserve) Fund (including authorising the meeting of expenses incurred in connection with the acquisition); and
 - c. the subsequent leasing of the new Government Headquarters by the Public of the Island from the Social Security (Reserve) Fund, with commercial terms to be agreed between the Minister for Infrastructure (on behalf of the Public) and Minister for Social Security and the Minister for Treasury and Resources (both on behalf of the Fund); and
- (n) in relation to the new Government Headquarters, to authorise H.M. Attorney General, the Greffier of the States, the Ministers for Infrastructure, Social Security and Treasury and Resources, and the

Public of the Island, to enter into such arrangements, including financing, and pass any contracts as are necessary to put into effect paragraph (o).

(o) to approve, in accordance with Article 9(1) of the Law, the Government Plan 2025-2028, as set out in the Appendix to the accompanying Report, except that in the section “Other Revenue Expenditure Growth Spending” on page 45 after the words “funding of In Vitro Fertilisation, recently approved by the Assembly” there should be inserted the following new paragraph –

“Funding for the Termination of Pregnancy (Jersey) Law 1997 Amendments workstream will be reviewed to ensure that both policy and law drafting resource for this workstream is prioritised by the Council of Ministers in the 2025 Legislative Programme and in order for amendments to the current outdated law to be lodged prior to the end of 2025.”

REPORT

Summary

If adopted, this proposed amendment will insert a paragraph into the Proposed Budget 2025-2028 to state that funding will be prioritised in 2025 to ensure adequate resourcing to progress the Termination of Pregnancy Law Amendments workstream.

Background

The Termination of Pregnancy (Jersey) Law 1997 has remained largely unchanged for over 25 years. A [public consultation](#) conducted by the Government of Jersey between July to October 2023 gathered feedback on the current law, revealing significant support for amendments. A summary of the consultation findings has been provided in this report to emphasise the rationale for prioritising the Termination of Pregnancy (ToP) Law amendments in 2025.

In July 2024, the Assistant Minister for Health and Social Services confirmed in a letter to the Panel that due to “*very limited resources*” it was the intention to only bring forward one amendment to the law before the end of 2024 to remove the current residency requirement. The Panel was informed that the removal of the residency requirement was a recommendation of the Women’s Health Political Advisory Group, owing to “*particular concerns about women who are in Jersey for the purposes of work, but who do not live here, being denied access to the service.*”¹

In a public quarterly hearing held on 19th September 2024, the Health and Social Security Panel enquired whether there was a consensus on the direction regarding the ToP workstream. The Assistant Minister for Health and Social Services confirmed, stating, “*we are committed to amending the Termination of Pregnancy Law, but unfortunately it was a consensus view that we would not be able to start until the end of 2025, beginning of 2026.*”²

Furthermore, the Panel heard that even if the wider amendments couldn’t proceed, addressing the issue of “*non-ordinarily resident women not being able to access terminations*” was crucial. The Assistant Minister referred to this as a “*particular high-risk area*” that needed immediate attention. The Assistant Minister reiterated the struggle with resources, saying, “*we want to develop an up-to-date law that reflects current society values and meets needs of women, but unfortunately we just simply do not have the resource to do that.*”³

The Panel questioned the Minister for Health and Social Services further around whether there should be an exemption to the current public sector recruitment freeze for the Health Policy team, in order to fill the vacant posts within the team.

Deputy L.M.C. Doublet:

Do you feel that there should be an exemption for something this critical, given the level of public interest in this issue around women’s health? Do you think

¹ [Letter](#) – Assistant Minister for Health and Social Services – 19th July 2024

² [Transcript](#) – Public Quarterly Hearing – Minister for Health and Social Services – 19th September 2024, p.46

³ [Transcript](#) – Public Quarterly Hearing – Minister for Health and Social Services – 19th September 2024, p.47

that there should be an exemption for your department and that those vacant posts should be filled?

The Minister for Health and Social Services:

That would be lovely. All I would say is that timing is important in these things and you do not always try and make demands all at the same time. So, let us see how we progress and if circumstances could permit over the course of time, let us see how things go.

Deputy L.M.C. Doublet:

So you may seek an exemption?

The Minister for Health and Social Services:

I would like to see more support for the team, because they are under real pressure.

Deputy L.M.C. Doublet:

Okay. Please keep us updated if you do seek that exemption.

The Minister for Health and Social Services:

Yes, and if you know of anybody who has got a budget surplus anywhere, we would happily remove it for the moment and invest it here because it is needed.⁴

In a public quarterly hearing held with the Chief Minister the following day on 20th September 2024, concerns were further raised by the Corporate Services Panel over reduced capacity in the Health Policy team, particularly regarding work on women's health and the ToP Law. It was highlighted that the Health Policy team had shrunk from six to four staff, which was hindering progress on the ToP workstream in particular. The current recruitment freeze was further highlighted as preventing hiring or contracting consultants and thus exacerbating the issue. It was stressed by officers in the hearing that exemptions to the freeze could be appealed directly to the Chief Executive who could consider these appeals on a case-by-case basis.

Deputy J. Renouf:

I think that is interesting. Yesterday, we were in the Health hearing and we questioned the Minister and his officials about the work on women's health and, in particular, on termination of pregnancy and why had that work not gone ahead. It was very clearly stated that the reason it had not gone ahead was because of capacity issues within the policy team. Those policy issues were explained very, very clearly; that they had lost a member of staff. There were 2 possible routes to deal with that. One would have been to recruit somebody else into that role, but there was a recruitment freeze.

...

Group Director of Policy:

So, as the Minister for Health and Social Services would have described, he has within his purview a capacity of policy officers and it is a prioritisation effort to understand which ones you focus on first.

⁴ [Transcript](#) – Public Quarterly Hearing – Minister for Health and Social Services – 19th September 2024, p.52

Deputy J. Renouf:

Not quite, if I may, because what was said very clearly was that the team used to be 6 and it is now 4, and that they will not be allowed to put people into those positions. So that is a reduction of capacity within the organisation to deliver an objective.

Group Director of Policy:

So without getting into a personal ... because I know exactly the case we are talking about. There was a plan to move an officer over to supplement that Health team because Health does remain a priority, but is within a wider capacity reduction.

...

Deputy H.M. Miles:

...the front line only operates if the back office is effective and the policy areas are effective, and particularly around the Termination of Pregnancy Law yesterday it is something that affects potentially over 50 per cent of our population, it is tied into the women's health agenda. We were really quite concerned yesterday to understand that had the person not left potentially the work would have gone forward but due to the recruitment freeze ... it is not the case, is it, that the front line is protected because you can only protect the front line so far if you do not have people underneath doing the work that is required?⁵

The Chief Minister urged that *“if the Health Department needs a key prioritised piece of work to go forward, they need to make a case to the Chief Executive if they need some extra resources.”⁶*

The following week, the Minister for Health and Social Services conducted a media interview where he revealed that the resourcing of the ToP workstream would now be prioritised. The intention of this proposed amendment is to therefore formalise this commitment in the Proposed Budget 2025-2028.

Key findings from the Government of Jersey's public consultation on ToP

1. Grounds for Termination

- **Termination on Request:** 74% of respondents supported making termination available on request without the need for justification. This reflects a strong societal shift towards recognising women's autonomy over their reproductive choices.
- **Risk to Woman's Health:** High support (95%) for termination where there is a risk to the woman's life, and 91% for risk of grave permanent injury to her physical or mental health.
- **Foetal Abnormality:** 86% supported termination in cases of serious foetal abnormalities, highlighting the need for clear guidelines on what constitutes such abnormalities.

2. Gestational Limits

⁵ [Transcript](#) – Public Quarterly Hearing – Chief Minister – 20th September 2024, pp. 17-20

⁶ [Transcript](#) – Public Quarterly Hearing – Chief Minister – 20th September 2024, p.19

- **Variable Limits:** 59% of respondents believed gestational limits should depend on the grounds for termination, with significant support for no gestational limits in cases of risk to the woman's life (74%) and grave permanent injury (69%).
- **Later Terminations:** Over 50% supported no gestational limits for terminations due to foetal abnormalities, rape, or incest, indicating a need for more flexible legislation.

3. Consultation Requirements

- **Number of Consultations:** 37% of respondents felt the number of required consultations should depend on the point in gestation, with a preference for fewer consultations in early gestation to reduce barriers to access.
- **Telemedicine:** There was considerable support for allowing consultations via phone or video link, especially for early medical terminations, to improve accessibility and reduce delays.

4. Criminal Liability

- **Decriminalisation:** 40% of respondents believed that no one should be liable for prosecution if a termination is carried out unlawfully, suggesting a shift towards treating termination as a healthcare issue rather than a criminal one.

5. Safe Access Zones

- **High Support:** 80% of respondents supported the introduction of safe access zones to protect women and healthcare providers from harassment and intimidation.⁷

The rationale for prioritising the ToP Law amendments

1. **Reflecting societal values:** The consultation feedback indicates a clear societal shift towards supporting women's reproductive rights and autonomy. Updating the ToP Law to allow termination on request and removing unnecessary barriers aligns with contemporary values and public opinion.
2. **Improving women's health and well-being:** The current law's restrictions can delay access to termination services, increasing health risks and emotional distress for women. Amending the law to allow for more flexible gestational limits and fewer consultation requirements will improve timely access to safe termination services.
3. **Aligning with medical advancements:** Advances in medical practice, such as telemedicine, have made it possible to provide safe and effective termination services remotely. Updating the law to incorporate these advancements will enhance service delivery and accessibility.

⁷ Termination of Pregnancy in Jersey [Consultation Feedback Report](#) – 5th March 2024, Government of Jersey

4. **Reducing inequities:** The current law disproportionately affects vulnerable women, including those with limited financial resources or those who discover their pregnancy later. Amending the law to provide more equitable access to termination services will address these disparities.
5. **Legal and ethical considerations:** The strong support for decriminalising termination and introducing safe access zones reflects a broader ethical stance that termination should be treated as a healthcare issue. Prioritising these amendments will align Jersey’s legislation with international human rights standards.

Evidence from the CRRC Study

A separate study entitled ‘The Lived experiences of termination of pregnancy in Jersey’⁸ conducted by the British Pregnancy Advisory Service’s Centre for Reproductive Research and Communication (CRRC) found the challenges posed by Jersey’s current law to be that the 12-week gestational limit for termination on the grounds of distress caused significant distress to participants, with some needing to travel off-island for care. In addition, participants were often unaware of the specific legal requirements and found the process confusing and stressful.

Conclusion

It is the Panel’s view that the evidence from the Government of Jersey’s public consultation and the CRRC study strongly supports the need for updates to the Termination of Pregnancy Law. Prioritising this workstream with adequate resourcing in 2025 is essential to ensure the law reflects societal values, improves women’s health and well-being, aligns with medical advancements, reduces inequities, and addresses legal and ethical considerations. The Panel urges the Minister for Health and Social Services, the Council of Ministers, and the wider States Assembly to support this Amendment.

Financial and staffing implications

The proposed Amendment seeks to insert narrative into the Proposed Budget 2025-2028 to prioritise funding for policy work and legislative drafting within what is currently proposed within the Budget.

The Panel was advised in a public hearing with the Minister for Health and Social Services that the required grade 12 policy officer resource for this workstream would equate to around £100,000 a year including onboarding costs.⁹

Children’s Rights Impact Assessment

A Children’s Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.

⁸ [The Lived experiences of termination of pregnancy in Jersey](#), Centre for Reproductive Research and Communication, British Pregnancy Advisory Service, February 2024

⁹ [Transcript](#) – Public Quarterly Hearing – Minister for Health and Social Services – 19th September 2024, p. 49