



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 26th September 2012

*All published Official Reports can be found on the
official States of Guernsey website www.gov.gg*

Volume 1, No. 7

ISSN 2049-8284

*Published by Her Majesty's Greffier, The Royal Court House,
St Peter Port, GY1 2PB. © States of Guernsey, 2012*

Present:

Richard J. McMahon, Esq., Deputy Bailiff and Deputy Presiding Officer

Law Officer

Miss M. M. E. Pullum, Q.C. (H. M. Comptroller)

People's Deputies

St. Peter Port South

Deputies P. A. Harwood, J. Kuttelwascher, B. L. Brehaut,
R. Domaille, A. H. Langlois, R. A. Jones

St. Peter Port North

Deputies M. K. Le Clerc, J. A. B. Gollop, P. A. Sherbourne,
R. Conder, M. J. Storey, E. G. Bebb, L. C. Queripel

St. Sampson

Deputies G. A. St Pier, K. A. Stewart, P. L. Gillson,
P. R. Le Pelley, S. J. Ogier, L. S. Trott

The Vale

Deputies M. J. Fallaize, D. B. Jones, L. B. Queripel,
M. M. Lowe, A. R. Le Lièvre, G. M. Collins

The Castel

Deputies D. J. Duquemin, C. J. Green, M. H. Dorey,
B. J. E. Paint, J. P. Le Tocq, S. A. James, M.B.E., A. H. Adam

The West

Deputies R. A. Perrot, A. H. Brouard, A. M. Wilkie,
D. de G. De Lisle, Y. Burford, D. A. Inglis

The South-East

Deputies H. J. R. Soulsby, R. W. Sillars, P. A. Luxon,
M. G. O'Hara, F. W. Quin, M. P. J. Hadley

Representatives of the Island of Alderney

Alderney Representative B. N. Kelly
Alderney Representative E. P. Arditti

The Clerk to the States of Deliberation

S. M. D. Ross, Esq. (H.M. Deputy Greffier)

Absent at the Evocation

H. E. Roberts, Esq., Q.C. (H. M. Procureur) (absent de l'Île)
Deputy A. Spruce (absent de l'Île)

Business transacted

Welcome back to Members: Apologies from the Bailiff	335
Convocation	335
Tribute to former Conseiller and Deputy Robert Myhill Chilcott.....	335
Access to States Assembly for disabled: Statement by the Deputy Bailiff	336
Statement by the Minister of the Treasury and Resources Department	337
Review of fraud prevention measures: Statement by the Chairman of the Public Accounts Committee.....	342
Significant development in fraud investigation by Guernsey Police: Statement by the Chief Minister.....	347
Questions for Oral Answer	
Electricity price rises – Policy Council attitude	348
Strategic Energy Report – Policy Council update.....	349
Financial support for home energy solutions – Policy Council strategy	349
Ambulance Service – Identifying persons to carry out review	350
Mental Health Law – Delay in enactment.....	350
Nurses’ compulsory holding power – Reason for eight hour period.....	351
Supply teaching – cost over last 12 months	353
States communications with public and media – need for improvement	354
States loan scheme to Islanders – Plans for reintroduction	357
Income Tax Office backlog – Current position.....	358
Income Tax Office backlog – Number of qualified staff	359
Income Tax Office backlog – Anticipated date for clearance	359
Focused questions and answers – Direction by the Deputy Bailiff.....	362
Billet d’État XX	
I. The Sewerage (Guernsey) (Amendment) Law, 2012, approved.....	363
II. The Health and Safety at Work (General) (Guernsey) (Amendment) Ordinance, 2012, approved	363
III. The Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2012, approved	364
IV. The Merchant Shipping (Convention on Limitation of Liability for Maritime Claims) (Bailiwick of Guernsey) Ordinance, 2012, approved	364
V. The Mont Varouf School (Guernsey) Law, 2012 (Commencement) Ordinance, 2012, approved	364
VI. The Sea Fish Licensing (Bailiwick of Guernsey) Law, 2012 (Commencement) Ordinance, 2012, approved	365
Ordinances and Statutory Instruments laid	366
VII. Education Department: Election of non-voting member – Mr D P Mulkerrin, C.B.E., elected	366
VIII. Commerce and Employment Department: Election of non-voting member – Advocate T M Carey elected	367
IX. Legislation Select Committee: Non-voting members –	

Advocate S F W Howitt and Ms D A Tindall elected.....	369
X. Policy Council: Appointment of member to Planning Panel – Mr D G Harry appointed.....	370
XI. Treasury and Resources Department: Double Taxation Arrangement with the Government of Japan, approved.....	371
XII. Commerce and Employment Department: The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2012; Commencement Order and Regulations to commence on 1 October 2012 – Debate commenced.....	374
<i>The Assembly adjourned at 12.33 p.m. and resumed its sitting at 2.30 p.m.</i>	
XII. Commerce and Employment Department: The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2012; Commencement Order and Regulations to commence on 1 October 2012 – Approved.....	380
Comments through the Presiding Officer – Ruling by the Deputy Bailiff.....	390
XIII. Health and Social Services Department: The Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008 – Registration of Pharmacies, approved.....	390
Procedural.....	395
XIV. Social Security Department: Contribution rates for 2013 – Debate commenced.....	395
Procedural.....	413
XIV. Social Security Department: Contribution rates for 2013 – Approved.....	414

The Assembly adjourned at 5.40 p.m.

States of Deliberation

*The States met at 9.30 a.m. in the presence of
His Excellency Air Marshal Peter Walker, C.B., C.B.E.
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey*

[THE DEPUTY BAILIFF *in the Chair*]

PRAYERS

The Deputy Greffier

EVOCATION

CONVOCATION

5 **The Deputy Greffier:** To the Members of the States of the Island of Guernsey, I have the honour to inform you that a Meeting of the States of Deliberation will be held at The Royal Court House on Wednesday, 26th September 2012 at 9.30 a.m. to consider the items contained in Billets d'État Nos. XX and XXII, which have been submitted for debate.

10

Welcome back to Members Apologies from the Bailiff

15 **The Deputy Bailiff:** Members of the States, welcome back to your parliamentary duties after the summer recess. I trust that you are all suitably refreshed and ready to engage in the debates and decision taking that lies ahead.

20 The Bailiff has asked me to say that he regrets he cannot be here today to preside over this meeting. This is because the Jersey Court of Appeal is sitting this week and, as is customary for new Bailiffs, he has been appointed by Her Majesty as a judge of that Court and has been sworn into office prior to this week's sitting. He is, therefore, currently playing his part in the wider development of Channels Islands' jurisprudence.

25 In his absence, I wish, first, to address you on two matters, starting with a tribute to a former Member of this Assembly.

Tribute to former Conseiller and Deputy Robert Myhill Chilcott

30 **The Deputy Bailiff:** Members of the States, earlier this month, we were saddened to learn of the death of former Conseiller and Deputy, Robert Myhill Chilcott. Because he was universally known as Bob, that is how I will now refer to him.

35 Bob was born in 1930, and he was educated at Elizabeth College, being evacuated with the school to Buxton, in 1940. Some 40 or so years later, he enjoyed the privilege and distinction of serving on the College's Board of Directors.

 Bob trained in butchery and meat retailing, at Smithfield College in London, later working in the family business, Chilcott and Sons. He then pursued his career in Canada, where he met Angela, who was later to become his wife.

40 This was followed by a period working in the United Kingdom and, in 1970, Bob was made a member of the Worshipful Company of Butchers in the City of London. Thereafter he moved back to Guernsey. In partnership with the Best family, he then founded Best Foods.

Bob commenced a long period of public service in 1976, when he was first elected as People's Deputy for St Peter Port. After two further successful Parish Elections as Deputy, in late 1982 he was elected as a Conseiller, which office he held until 1994.

45 During the 18 years in which he was a Member of the States, he served on some 12 Permanent Committees and three Special Committees. I will highlight just a few of them today, rather than name them all.

50 With regard to Special Committees, Bob was President of the States Meetings Broadcasting Investigation Committee, the findings of which resulted in States resolutions permitting the broadcasting but not televising of States proceedings – resolutions which remain in force today, some 30 years later. He was also President of the Queen's Silver Jubilee Committee, a task which he much enjoyed.

55 Insofar as Permanent Committees are concerned, Bob served on several, including the Advisory and Finance Committee, the Education Council, the Police Committee and the Prison Board. However, he will be particularly remembered for his work as President of the States Insurance Authority, an office which he held for over 12 years, and also for the three years which he spent as President of the Board of Health.

60 Bob was an enthusiastic member of the Commonwealth Parliamentary Association, representing Guernsey at many regional and plenary conferences. For three years he served as Regional Representative of the British Islands and Mediterranean Region.

Bob's sense of public service continued after his time as a Member of the States ended. In 2004 he commenced a three-year term as Constable of the Forest, having previously served for two years as Procureur of the Poor.

65 Beyond his service as a Member of the States and in parochial office, Bob had many and varied interests. He was devoted to the work of the Rotary Club of Guernsey, including serving a term as its President, thereby following in his father's footsteps. He also served as President of the National Trust of Guernsey and of the Friends of St James Association.

70 Bob's character could be described as strong-willed and he frequently expressed his opinion in a forthright manner. He is recorded as having said the following words that may, or even should, resonate with us all – I quote:

'I have always been a positive person and had I been blessed with more wisdom, I would have made fewer errors of judgement. But then again, perhaps life would have been less interesting, had I not made those errors.'

75 Coupled with his straight-talking manner, however, Bob also had a strong sense of compassion and justice. Outwardly, he displayed a hard exterior but, inwardly, he had a kind and generous heart, which manifested itself in his zeal for social reform, and this was displayed particularly in his work as President of the Insurance Authority. He was fully committed to every task which he undertook, whether in the States or in the Parish, in the course of his business or in voluntary activities.

80 He leaves a widow, Angela, and three children, Joanna, Clare and Edward, grandchildren and great grandchildren, to whom we extend our sincere condolences.

Members of the States, will you please join me in rising to honour the memory of Robert Mayhill Chilcott.

85 *Members stood in silence.*

The Deputy Bailiff: Thank you, Members of the States.

90

**Access to States Assembly for disabled
Statement by the Deputy Bailiff**

95 **The Deputy Bailiff:** I now wish to make a brief statement regarding access to the Public Gallery by disabled persons.

Some time ago, the Bailiff was asked by the Chairman of the Guernsey Disability Alliance whether it would be possible for disabled people, particularly those in wheelchairs, to be able to view States proceedings from the Public Gallery.

100 The matter was considered by the States Assembly and Constitution Committee, following which the Bailiff, the Chairman of that Committee, and the Chairman of the Guernsey Disability Alliance met.

They concluded, with regret, that access could not be provided to the Public Gallery itself without considerable and costly alterations being carried out. However, whilst it remains the hope that, in the longer term, this Chamber can be configured to allow wheelchair access to the Public Gallery itself, it has been agreed that, until that is possible, an alternative facility will be provided. When required, two wheelchairs can be located in the space immediately behind the bench occupied by Deputies Conder, Storey and Bebb.

105 The only practical consequence is that Deputies Lester Queripel and Trott will need to access their seats from this side of the bench, and I am *very* pleased to say that the two Deputies concerned have kindly signified that they have no objection to so doing. It is expected that this provision, which I have just outlined, will be used for the first time at next month's sitting of the States of Deliberation.

110 Members of the public who do occupy the places to be provided will, quite properly, be deemed to be in the public gallery. It will not, therefore, be permissible for Members of the States to converse or otherwise communicate with them whilst the States are in session.

115 I hope that forewarns you about what is expected to happen from next month and we look forward to that experiment.

120

Statement by the Minister of the Treasury and Resources Department

The Deputy Bailiff: We move on to some Statements and, in accordance with Rule 8(b), I have given permission for the Minister of the Treasury and Resources Department to make a Statement.

Deputy St Pier.

Deputy St Pier: Thank you, sir.

130 Mr Deputy Bailiff, this is, of course, the first meeting of this Assembly since my last ministerial Statement two months ago on 25th July, in which I announced that a fraud had been perpetrated against the States. I and my Board feel that it is essential that I should take this opportunity to bring Members up to date so far as is possible. As in July, I will, of course, also endeavour to answer Members' questions following my Statement as fully as I am able.

135 As I said in my Statement in July, the fraud was simple enough, but I understand that the resulting police investigation is complex, involving, as it now apparently does, three police forces. My Department and its staff have provided the police with full co-operation in their investigation. However, I am unable to provide further details of the police investigation for the very simple reason that I simply do not have any further information to provide. Their investigation is, clearly and rightly, a matter for them.

140 The external investigation requested by my Board is, as Members will be well aware, now a matter being led by the Public Accounts Committee and I look forward to Deputy Soulsby's Statement shortly. My Board welcomes the publication last week of the Public Accounts Committee's terms of reference for their investigation and we will, of course, provide full access and assistance to it. I and my Board look forward to contributing to the PAC's investigation in whatever way and whatever form is requested of us.

145 Since my last Statement, I have been made aware of many other instances of this so-called mandate fraud, both on and off the Island. It does seem that this fraud is often aimed at public sector agencies in the UK dealing with construction companies. Perhaps not least because so much information is publicly available, because of procurement policies and also the UK's Freedom of Information Act, it may now be easier for fraudsters to source potential targets. All of this is interesting and is small comfort, but – and I must clearly emphasise this – it is no excuse. Whilst systems of internal control cannot entirely eradicate all fraud risk, *this* fraud was probably preventable.

150 So, sir, before I go any further, I would like to take this opportunity to unreservedly apologise on behalf of the States of Guernsey to the public and taxpayers of the Islands for *their* loss arising from apparently having failed to prevent this fraud. The question remains, therefore, why were we and our systems apparently unprepared for this sort of event? Whilst this is quite likely to be one of the topics of great interest to the PAC investigation, we cannot await the outcome of that investigation before acting to ensure that we are responding as effectively as possible to the fraud

160 and ensuring that our processes and systems of control are as robust as is practicable. Therefore, I would like to use this Statement to advise Members of what my Board and Department have been doing since my last Statement.

165 On 27th July, two days after my last Statement, we received a copy of an internal fraud risk assessment. This report highlighted significant weaknesses and concerns in relation to the States fraud risk preparedness. Although the report had been prepared in mid-May, I and my Board were *extremely disappointed* – and that is an understatement to make it fit for parliamentary use – that this report had not been brought to the attention of my Board, or indeed any politician before, or indeed after, the fraud came to light. In consequence, I asked my Department to find whatever resources they required to implement the recommendations of the report as swiftly as possible. My Board, through its regular meetings since, have sought updates from the Department's staff responsible for implementing the recommendations of this report.

170 In August the Board received copies of two further reports: the Department's own internal report, which the Board had requested immediately that it had become aware of the fraud, and a further report from Internal Audit, commenting on the States' internal financial controls. Both of these reports were considered by the Board and, in particular, the Board noted that all the recommendations in the internal report had been accepted by the Civil Service. I must emphasise, for the avoidance of doubt, that controls have been changed to prevent any recurrence of this type of fraud.

180 As I have previously indicated publicly, the Internal Audit report should not be published, as it does contain sensitive information about the systems of controls which the States operates and which it would be irresponsible to have in the public domain, but I should emphasise, however, that in any event the report does not actually contain any information that is particularly pertinent to the fraud.

185 The Board have considered the Department's plan and timetable for implementing the changes recommended in the Internal Audit report and is regularly monitoring progress. It did so again this week and will continue to do so.

As I said earlier, all the reports to which I have referred, and which have informed the Board's decisions and actions will, of course, be turned over and made available to the PAC for their investigation and the actions of the Department will become a matter of public record through that process.

190 Mr Deputy Bailiff, that deals with my Board's responses to the immediate and approximate consequences of the fraud. The Public Accounts Committee's April 2012 review of risk management and insurance stated, and I quote:

195 'The 2006 National Audit Office Report identified that risk management needs to be seen as part and parcel of the everyday business process, not as something different or separate to be done as a special exercise. It is also important that the States risk management is regularly addressed at the highest levels within the States. Risk assessment must not be allowed to slip down the agenda, or be left to be dealt with by junior staff within Departments.'

200 It went on to say:

'This assertion would be equally valid in 2012.'

205 In my Board's view, firm, political leadership is now required to ensure that these reports are finally taken seriously and acted upon as soon as is reasonable. As a result, I requested that Policy Council take a leadership role in ensuring that a robust, corporate risk management framework is adopted by the States as quickly as is feasible. This has been agreed and a triumvirate from Policy Council, comprising myself, the Chief Minister and Deputy Luxon have been tasked, for an initial three-month period, with overseeing the implementation plan of the Chief Executive and his team.

210 The triumvirate has held an initial meeting with the Chief Executive and his senior staff to review progress and it will be meeting again in due course. The Chief Executive's announcement towards the end of last week of the changes in the senior management of the Treasury and Resources Department is part of a process of management change in response to the fraud and associated risk management issues and I welcome these changes.

215 Sir, in my last Statement I said I felt that I and my Board should not be judged by the fraud itself, which we were not in a position to prevent, but how we responded to the fraud. I hope that Members of the Assembly and the public, having now heard this Statement and how we have responded, retain confidence in my Board to deal appropriately with the aftermath of the fraud. However, the response is not over yet. We are not complacent and there is much that still needs to be done to eliminate, as far as possible, the risk of this sort of event happening again.

220 Indeed, we all, not just the Treasury Resources Board, have a role to play. All Ministers and all

departmental Board members must now ensure that their Departments fully comply as swiftly as possible with all measures demanded of them to rapidly implement an effective, corporate, risk management framework and they must consider their own Department's risk awareness and preparedness. All those in scrutiny roles have a part to play in ensuring that this is the case. I can best illustrate this by way of example.

Currently across the States, Departments use purchase orders for approximately 40% of purchases. However, the increased use of purchase orders is probably the single most important process change which can reduce fraud risk. We should be aiming for 90% compliance with this process. I have, therefore, asked all Ministers to bring this to their Board's attention, with a view to ensuring *their* Departments play *their* part in assuring compliance as rapidly as possible and my Department will monitor the adoption of this process.

Sir, I cannot finish this Statement without saying a few words about the resignation, on 30th July, of my Department's Chief Officer, Dale Holmes. I know that his resignation came as a great shock to the Department, who will miss him, personally and professionally, when he leaves the Civil Service, after 34 years, on 31st October. His decision to resign was a personal one and his alone. As the head of the Department, he took the view that he was accountable for the conduct of his Department in general and its failure to prevent the fraud in particular.

No-one should underestimate the courage of such a decision. Such a decision marks the person who makes it as an individual of great integrity and honour. (**A Member:** Hear, hear.) Aside from these qualities, in the short time I have worked with Dale, since I became a Minister on 8th May, I have found him to be a hard working, experienced, dedicated professional and one that I have been very happy to work with. I would like to take this opportunity, on behalf of myself and my Board, and I know, many others, to thank Dale for his personable, sound and clear advice and a career devoted to public service and to wish him and his family the very best for the future. (**Members:** Hear, hear.)

Thank you, sir. (*Applause*)

The Deputy Bailiff: Does anyone have a question arising out of that Statement, and in the context of the Statement, to the Minister?

Yes, Deputy Lester Queripel.

Deputy Lester Queripel: Thank you, sir.

As far as I am aware, the only information that we have been given is that the UK police force, in some form or other, are investigating this issue, so could the Minister please tell us exactly *who* is investigating? Is it some kind of fraud squad? Exactly what is the title of this investigating body?

Secondly, can we be assured this is a priority, because one would suspect that, in the UK, a fraud squad would have billions of pounds worth of frauds to investigate? So how much of a priority is £2.6 million to them? Can we have some assurance that it is a priority, please, sir, from the Minister?

The Deputy Bailiff: Minister, are you able to answer those questions or are they matters for someone else?

Deputy St Pier: I am not able to answer them fully.

All I can say is my understanding is that the investigation is being led by the Guernsey Police and it is a matter of priority to *them*. I cannot add anything further.

The Deputy Bailiff: Thank you very much.
Deputy Gollop.

Deputy Gollop: I have got two questions.

The first is there was a report in response to a point made, I think, by Deputy Storey in the *Press* yesterday, indicating that there had been a relevant Public Accounts report that preceded the internal report that the Treasury and Resources Minister referred to. Are the Department acting on *those* reports in the context of this?

The second question is, bearing in mind the call for strong leadership, which I entirely endorse, is the Treasury and Resources Minister indicating that politicians, where appropriate, should take a lead in operational matters, as well as policy matters?

The Deputy Bailiff: Minister.

285 **Deputy St Pier:** Thank you, Deputy Gollop.
The reports which I was referring to in my Statement, I think, are the same ones which Deputy Storey was quoted as referring to in the media.

290 With regard to political leadership, I am not suggesting that it is necessary for politicians to take an operational role, but I think it is fair to say that it is my view that these reports have perhaps not been acted upon, because it has not been of great interest at a political level and that is what is now required.

The Deputy Bailiff: Deputy Storey.

295 **Deputy Storey:** Thank you, sir.

I have got a couple of questions for the Minister, if I may. The first question, really, is in relation to the number of reports which PAC and its predecessor have produced on this very matter of risk management.

300 In fact, the first report was published in 2000 by the then Audit Commission, followed by a follow-up report in 2006, but initiated by PAC and performed by the National Audit Office, and a further report which was commissioned and published this last April.

305 That is 11 years. I would like the Minister to assure me that, when further reports come from PAC about other matters, they are not going to be allocated such a low priority as this very important subject was obviously allocated and that there would be a response to future PAC reports either in the affirmative, including what is going to be done about it and a timetable for doing it, or a reason for rejecting the report.

I think to leave reports hanging around on dusty shelves is unacceptable and I would like an assurance on that, sir.

310 **The Deputy Bailiff:** Deputy Storey, that should be a question, rather than a comment.

Deputy Storey: The second point is that there was a statement in the press that the States had work in progress in 2011, addressing the risk management. So my question to the Minister is, how is it, if that was the case, when Deloitte's performed their investigation on risk management, they found no evidence of that work? Perhaps the Minister could explain that to me.

315 Thank you, sir.

The Deputy Bailiff: Thank you.
The answer to those questions, Minister.

320 **Deputy St Pier:** Yes, thank you, Deputy Storey. I agree entirely with the comments you made. I cannot speak for conduct pre-dating my involvement with the States. I can give Deputy Storey assurance that any future reports by the Public Accounts Committee which require action by my Department will receive the appropriate level of attention, but I think, as I made clear in my Statement, it is the responsibility not just of Treasury and Resources... I think that was quite clear from the Public Accounts Committee's prior work – that the responsibilities were well beyond my Board – which required action by perhaps many other Departments.

325 I think that was a central part of my Statement, that we all need to take a greater level of interest and responsibility in this area.

330 Thank you.

The Deputy Bailiff: Thank you.
Deputy Conder.

335 **Deputy Conder:** Thank you, sir.

When the Minister advised us of the fraud at our last meeting, I did ask a question which HM Procureur advised could not be answered at the time, which was about the insurable risk.

340 I am very happy to withdraw this question, if that is still the case but, at some stage, I would like to know, and I suspect our public and other Members would like to know whether this is an insurable risk. If Madam Comptroller feels this is still unacceptable I am quite happy to withdraw that question.

I do have another question.

The Comptroller: I think certainly, at this stage, it would be a question not to answer and,

indeed, in future it may not be one we can ever answer, for quite obvious reasons. If it is an insurable risk, people might well take steps to try and circumvent current procedures.

Deputy Conder: Thank you, I am happy to withdraw.

The Deputy Bailiff: On that basis, I will rule that the question should not be put, Deputy Conder, but if you have another question, please do pose it.

Deputy Conder: Thank you.

Could the Minister enlarge on his statement about the risk assessment which he received which, of course, caused him and his Board some concern that it had not been acted upon. I think I understood him to say that they had received a risk assessment report and he and his Board were concerned that they had not been made aware of it. I did not fully understand, I would be grateful if he can enlarge on that.

Thank you.

Deputy St Pier: Yes, I can briefly.

As I say, at the end of July, we were aware that work had been undertaken earlier in the year, which was internal work which had identified concerns around the States broad awareness and its preparedness, for coping with fraud. It was that work which was drawn to our attention towards the end of July, and it was on the back of that that we requested that the Department make available whatever resources are required to address the recommendations, following that report.

The Deputy Bailiff: Deputy Bebb.

Deputy Bebb: If I may, if I could ask the Minister how much has been spent in investigations following the fraud? If that number is not actually available to him at this point in time, would he be able to undertake to circulate the costs that we have incurred as a result of the fraud, in terms of investigations, to the Members at a later point.

Deputy St Pier: I can attempt to answer that question to the best of my knowledge.

My Department has spent nothing externally, other than its own resources. I would prefer not to have to try and quantify the cost of those internal resources. That in itself would require time to be spent. Certainly, I can confirm that no external resources have been deployed by my Department.

I cannot speak for any costs which the Police have obviously incurred or, indeed, the Public Accounts Committee.

The Deputy Bailiff: Deputy Trott.

Deputy Trott: Sir, may I ask if the States' external auditors have raised concerns about inadequate risk controls at any time over the last say five years?

The Deputy Bailiff: Minister, are you able to answer that question?

Deputy St Pier: I would need to refer back to all the external auditors' management letters over the last five years, to be able to give a truly accurate picture. It is something which the Board did question and have looked at.

There was nothing that was immediately obvious that was pertinent to this particular case, but I would need to do some further work to be able to give a full answer.

The Deputy Bailiff: Deputy Trott, if that is something you wish to pursue, perhaps a Rule 6 Question in the first instance might resolve that.

Any further questions for the Minister on his Statement? There are still a few minutes left if you want to... No?

Thank you, Minister, for your Statement and your answers to questions.

405

Review of fraud prevention measures
Statement by the Chairman of the Public Accounts Committee

The Deputy Bailiff: I have also given permission, under Rule 8(b), for the Chairman of the Public Accounts Committee to make a Statement on a similar topic.

410

So, Deputy Soulsby.

415

Deputy Soulsby: Deputy Bailiff, Members of the States, I am making this Statement further to last week's publication of the terms of reference for the Public Accounts Committee's Fraud Review. On behalf of the Committee, I wish to expand on the information provided in the accompanying media release and advise what action it has taken since the Minister of the Treasury and Resources Department made his statement in July.

420

The Committee agreed, at its meeting in July, to commission and oversee the independent external review into the specific incident of fraud, in liaison with the Chief Minister. Although he wanted to commence a review immediately, it was prudent that we take advice from the Guernsey Police and law officers on the potential impact the review could have on the ongoing criminal investigation.

425

It must not be forgotten that we are not dealing with a basic bread-and-butter review here. The fact is that a criminal act has been committed against the States of Guernsey, which affects the people of Guernsey and a Police investigation is underway.

It is not the wish of the Committee or in the interests of the people of Guernsey to jeopardise a Police investigation. We wish to get to the heart of this incident as quickly as possible, but will pursue this matter responsibly, and with regard to the professional advice of those seeking to establish criminal responsibility and the recovery of funds.

430

The clear legal advice is that the section of this review considering the circumstance of the specific incident of fraud should not be conducted until the criminal investigation has been completed. However, the Committee will carry out a broader review into the appropriateness of financial controls relating to fraud prevention across the States of Guernsey as soon as possible.

435

Part of the Committee's mandate is to ensure that proper scrutiny is given to the States' assets, expenditure and revenues, to ensure that States' bodies operate to the highest standards in the management of their financial affairs.

The purpose of this review is to consider the effectiveness of financial controls in place to minimise the risk of fraud and to provide independent assurance that processes and procedures across the States are to an acceptable standard.

440

The Treasury and Resources Department is responsible for the regulation and control of States financial affairs. Whilst we have received assurances from the Minister of the Treasury and Resources Department that controls the change, we must have independent validation that they are now fit for purpose. It is imperative that the public are assured and those outside this Island are in no doubt that the States of Guernsey are not open to fraud.

445

In publishing the terms of reference, we also announced that we would be commissioning external reviewers to undertake both stages of the review. I have made very clear my views on the use of external consultants, in my desire that the Public Accounts Committee undertakes an increasing number of reviews in house. At this early stage of the current Committee's existence, we simply do not have the resources or expertise available to undertake this review. This is why the Committee has an existing budget available for contracted-out work, which this review is expected to fall within.

450

The staff of the Public Accounts Committee and the Scrutiny Committee were amalgamated at the start of this political term. There is a total of four members of staff available to support the work of both Committees. We lack staff resources. This is a highly specialised area, and large elements of this review will require relevant expertise that we currently do not have available without outsourcing.

455

During this political term I will endeavour to ensure that the Committee *is* appropriately resourced. However, at the present time, it would be unrealistic of the Committee to expect the team to single-handedly undertake a review of this nature.

460

In addition, we agree with the Chief Minister, that the Public Accounts Committee, working together with the external experts, will give the public assurance that this is a thorough and independent review.

465

I would also like to clarify the use of the term 'external'. By this we mean external to the States of Guernsey, not the Island itself. Given the quality and experience of our financial service industry, the expertise we require is clearly available on-Island. We are seeking to commission a local business to investigate and produce a report in line with the terms of reference, and aim to

announce a review and the timescale for the review, by the next States meeting.

As many Members will be aware, there have been reports previously published on the States internal controls. Indeed, the former Public Accounts Committee issued such a report on risk management in the last year, which has just been mentioned. The Committee will not be replicating work previously undertaken, but will assess how effectively previous recommendations and findings have been implemented.

It is essential that attention is focused on the effects of the changes made following the fraud incident, as well as the effects of recent changes in the management structure in the Treasury and Resources Department and the implementation of the shared transaction service centre.

Finally, I would also like to make a brief comment regarding disclosure of information that will be received as part of this review. I can confirm that we will publish all relevant information arising from our review, unless we are advised that we cannot do so for legal reasons or because it would not be in the public interest to do so.

The public *will* have answers and I trust will understand that, in these unique circumstances, these should be the *right* answers and not the quick answers.

The Deputy Bailiff: Thank you, Deputy Soulsby.

There is now an opportunity to pose some questions. Before we move to that stage, and before we get to Question Time, as well, can I just remind Members that, when asking and answering questions, you do so by addressing the Presiding Officer, rather than speaking directly to one another. That is the parliamentary practice that we adopt in this Assembly.

So the 15 minutes – I will just take a note of the time, if we need it. Who is first? Is it Deputy Brehaut?

A Member: Yes.

Deputy Brehaut: Thank you.

Through you, may I ask the Chair of the Public Accounts Committee, why is it that our colleagues in the UK, for example, can have the Leveson Inquiry and a police inquiry running parallel and that, frequently, there are parliamentary committee hearings and police investigations running parallel?

On what advice did her Committee decide to choose not to have an inquiry along with the Police investigation? Why is that simply not possible in the Guernsey context, please?

The Deputy Bailiff: Deputy Soulsby, are you able to answer that question or is that...?

Deputy Soulsby: Well, I cannot comment on how the UK conducts its parliamentary proceedings. That is up to them and that is for them to decide whether they can do that or not.

We have taken appropriate advice. As the Minister for Treasury and Resources stated, whilst the actual fraud itself might have been simple, the investigation is quite complex and it might be a complete different circumstance from what is happening in the Leveson Inquiry. For that reason, and for the clear advice we have been given, we have decided that it is not in the best interests to pursue that review at this stage.

Deputy Brehaut: Just a second, sir, if you will allow it.

I was of the view that the requisite skills that the Chair referred to were present on her own Committee, that there are people with a background in finance that may have something to offer with regard to a review. I just wondered why, or perhaps she could detail exactly why, they decided not to use the political members on the Board and to outsource the review.

I have concerns on the general integrity of the Scrutiny Committee process, that we have got to outsource, rather than use the skills that we have on the existing committees.

Thank you.

The Deputy Bailiff: So, Chair of the Committee, I think the question is why you are not using your internal resources?

Deputy Soulsby: Sir, the mandate of our Committee is to take the information from those experts, review their findings, undertake a hearing based on those findings, where we want more information, and produce our recommendations based on those findings and the information that we receive from those hearings.

If you are asking us why we should not be going out door-to-door and desk-to-desk, then the

States of Guernsey... I would question why does the Legislation Select Committee not undertake the role of producing all the laws in the Island. Perhaps Deputy Fallaize may be asked to produce the software required for the electronic voting system?

530

That is not what we expect to do. (*Laughter*)

The Deputy Bailiff: Deputy Storey, I think, attracted my attention next.

535

Deputy Storey: Thank you, sir.

I have three questions. Shall I place them all at once, or one at a time, sir?

The Deputy Bailiff: Are they all interlinked?

540

Deputy Storey: They are all about the same subject. (*Laughter*)

The linkage might be a little obscure in some instances, sir!

The Deputy Bailiff: In that case, Deputy Storey, I suggest you pose them separately, rather than all at once, so that we can follow the questions and answers.

545

Deputy Storey: Thank you, sir.

My first question is in relation to the report that PAC is planning to make and their investigations.

550

My question is, if we have... when we produce this other report, could you please include in your investigations why it took so long for the States to start implementing the recommendations produced and why the matter was given such a low priority, because I think this is a matter which could well affect the response to future PAC reports and I would hate to see the same thing happen again.

So could you cover that area in your report, please?

555

Deputy Soulsby: As I said in my Statement, the current review will look at previous reviews and how the recommendations have been implemented and, not wanting to pre-empt what we are going to say, we will make comments about how those recommendations have been implemented in the past.

560

The Deputy Bailiff: Thank you.

Your next question, Deputy Storey.

Deputy Storey: My next question is, is the Chairman of PAC confident that the Committee has the resources, because he has already commented about lack of resources at this time?

565

I am concerned that PAC will continue to lack the resources to fulfil the Committee's mandate. Indeed, as far as I am aware, the PAC does not have access to a staff qualified in public finances and that, to me, is a matter of concern. Perhaps the Chairman could respond to the point about resources.

570

Deputy Soulsby: I made it clear in my Statement we are under-resourced. We are currently interviewing for a principal officer, but I do think we need further expertise.

We are giving this review priority and my staff can support the experts we bring in but, clearly, as I said, I want to do more work in-house and to do that I will need further resources.

575

The Deputy Bailiff: And your third question, Deputy Storey.

Deputy Storey: Thank you, sir.

580

My third question refers to the lack of communication that we have had, as Members, over the last two months about what is happening. In fact, we have really had to find out what we could from the *Guernsey Press*.

This gives the impression to the public that it is either a sign of extreme arrogance on the part of the Policy Council, or of not knowing what to do –

585

The Deputy Bailiff: Is this a question to –?

Deputy Storey: – and I am not sure which answer concerns me –

The Deputy Bailiff: Deputy Storey, this is a question for the Chairman of the Committee.

590 **Deputy Storey:** Sir, I am asking the Chairman if she can assure me that PAC will keep
Members better informed on the progress of their investigations, while they are progressing.
Thank you, sir.

595 **Deputy Soulsby:** I can confirm we will provide updates when we can provide updates.
Certainly, from the Public Accounts Committee point of view, we have not gone to the *Press* or
anyone else before we have spoken and given information to the Members of this Assembly.

The Deputy Bailiff: Thank you, Deputy Soulsby.
Anyone else? Deputy Trott?
600 I will take Deputy Trott, then Deputy Fallaize, then Deputy Gollop in that order, so that –

Deputy Trott: The Public Accounts Committee is responsible for appointing the external
auditors of the States and the Public Accounts Committee meets with them to discuss any issues
raised. Therefore, I pose a similar question to the one I posed to the Treasury and Resources
605 Minister a short while ago.

Can the Public Accounts Committee advise the Assembly whether the external auditors of the
States have, at any time over the last five years, raised any issues regarding the inadequacy of risk
control within the States public sector?

610 **The Deputy Bailiff:** Chairman, can you answer that, or is it again one –

Deputy Soulsby: My answer is the same as the Treasury and Resources Minister.
I cannot comment for the last five years. I do not know of any specifics relating to this fraud
615 within the States.

The Deputy Bailiff: Thank you.
Once again, Deputy Trott, overall, a Rule 6 question might lead you down that route.
Deputy Fallaize.

620 **Deputy Fallaize:** Thank you, sir.
I have two or three questions and I will put them separately.
First of all, is the Chairman of the Committee confident that the type of review the Committee
has designed will allow the Committee to hold to account those who are responsible for allowing
625 the States to be defrauded?

Deputy Soulsby: It is not the Committee's purpose to hold those people to account. Our
purpose is to review and make recommendations. How the Departments deal with the outcome of
our review is for them to decide.

630 **The Deputy Bailiff:** Do you have another question?

Deputy Fallaize: Yes, sir.
I think it *is* the responsibility of the Public Accounts Committee to hold Departments of the
635 States to account –

The Deputy Bailiff: This is questions, not comments.

Deputy Fallaize: – and, sir, in order to establish how independent this review is, is the
Chairman of the Committee able to advise the States whether it drew up the terms of reference
640 itself, or whether the terms of reference were drawn up in conjunction with those whom it intends
to scrutinise?

Deputy Soulsby: I can confirm that we drew up the terms of reference ourselves and none of
the Departments have been involved in the process at all.
645

The Deputy Bailiff: Thank you.
Did you have a third question?

650 **Deputy Fallaize:** Sir, that is all, thank you.

The Deputy Bailiff: Deputy Gollop then, next.

Deputy Gollop: I have got three brief questions on the issue.

655 The first is, the previous Committee, as we have heard, published a Report in April 2012, which was not a good time to publish a report. Will your Committee ensure that when you publish reports, every effort will be made for presentations to States Members, so that everybody has a chance to fully acquaint themselves with the issues?

660 My second question is will you be proceeding, at some point, looking at an Auditor General to have a role in this inquiry? The Policy Council did not go for that last time...

My third question is, will there be an opportunity for *some* degree of public hearing in this process, notwithstanding the confidentiality of some of the issues?

The Deputy Bailiff: Deputy Soulsby.

665 **Deputy Soulsby:** Thank you, sir.

I totally take on board Deputy Gollop's comments regarding providing further information to the Deputies following publication of the Report. Quite happy to do that.

670 Auditor General: I am personally not particularly in favour of an Auditor General. An Auditor General means more costs, more people and I think there is a history of issues arise when you do have an Auditor General. We have seen that in Jersey recently.

In terms of a public hearing, it is definitely my intention at this stage to have a public hearing.

The Deputy Bailiff: Thank you.

675 Deputy Luxon.

Deputy Luxon: Sir, would the Chairman of PAC, in relation to Deputy Storey's earlier question, agree with me that, in actual fact, the media has not been the best source of updates for Members of this Assembly.

680 The two Ministerial Statements from the Treasury and Resources Minister and, indeed, the PAC Chairman's Statement today and previous speeches... in actual fact, all efforts *have* been made to update this Assembly with as much information as is possible, bearing in mind the sensitivity of the case.

685 Would the PAC Chairman agree with me that the updates have been as frequent and as full as possible?

Deputy Soulsby: I can confirm we have given the updates as frequently as it has been possible to give and we will be giving updates as necessary in the future.

The Deputy Bailiff: Deputy Lester Queripel.

690

Deputy Lester Queripel: Thank you, sir.

I am seeking a point of clarification, through the Chair.

695 I apologise if I have missed a fundamental point, sir, but is the PAC review focusing *exclusively* on the internal procedures of the States, or is there also an intention to review the security of the banking system itself? It is not only the fault of the States of Guernsey that this fraud has occurred. Presumably a bank somewhere has accepted, or maybe even moved this cheque on.

700 I understand that this may be outside the remit and the mandate of the PAC, but I would ask the PAC Chair to comment on my concern but also, if it is *not* the responsibility of the PAC, whose responsibility within the States is it?

The Deputy Bailiff: Deputy Soulsby, is that something that you can answer at this stage, or would you rather –

705

Deputy Soulsby: What I can say is no banking regulations are the responsibility of the Public Accounts Committee, which is responsible for the activities of the States of Guernsey, so it is not our responsibility.

I assume, if you are talking about *regulation*, it would be the Guernsey Financial Services Commission, but it certainly does not fall anywhere within my Committee.

710

The Deputy Bailiff: Deputy Lester Queripel.

715

Deputy Lester Queripel: My second part of the question is, someone else can answer, perhaps on the Policy Council: whose responsibility is it?

The Deputy Bailiff: It is only questions to the Chairman of the Public Accounts Committee, in the context of the Statement which she made, that are permissible under Rule 8(b) at the moment.

720

Deputy Lester Queripel: Okay, thank you, sir.

The Deputy Bailiff: If that is a question, you need to pose it in another direction in due course.

Deputy Lester Queripel: Thank you, sir.

725

The Deputy Bailiff: Deputy De Lisle, we are coming up to the 15 minutes, but there is time for this one.

Deputy De Lisle: Thank you, sir.

730

Many will be disappointed that, after two months after the fraud on 10th July, Islanders remain in the dark about what happened.

Will the taxpayers – and I would like to ask the Chairman of the Public Accounts Committee particularly with reference to some of the comments that she has made to the *Press* – ever know the full details of the £2.6 million fraud?

735

The Deputy Bailiff: Deputy Soulsby.

Deputy Soulsby: In due course, I am sure the details can come out. Our issue is timing. We cannot issue all this information now, when we have got an ongoing criminal investigation. That is the issue we are dealing with now.

740

The Deputy Bailiff: I do not see anyone else trying to draw my attention as part of these questions, so thank you, Chairman, for your answers to those questions.

745

**Significant development in fraud investigation by Guernsey Police
Statement by the Chief Minister**

750

The Deputy Bailiff: Before we move to Question Time, Members of the States, the Chief Minister has sought my permission, also under Rule 8(b), to make a further Statement in the context of what we have just been dealing with.

I have given that permission, so Chief Minister.

755

The Chief Minister (Deputy Harwood): Mr Deputy Bailiff, thank you.

I would like to thank you for affording me the opportunity to address the Assembly on a significant development in the ongoing police investigation into the fraudulent theft of £2.6 million of Guernsey taxpayers' money from the States of Guernsey earlier this year.

760

The Chief of Police has asked me to inform Members of the States that, this morning, officers of the Guernsey Police, working closely with colleagues from the City of London Police, executed two search warrants at addresses in the east and southeast of England in connection with the fraud. I am informed that documents and computers have been seized: no arrests have been made at this time. Whilst, it is of course, for the Police to report on the facts of the operation, I am sure that Members of the States will, like me, be pleased to note the progress being made in what is a complex, ongoing police investigation.

765

However, there remains a long way to go and much work to be done, before those responsible for the theft of the £2.6 million of Guernsey taxpayers' money can be brought to justice.

In closing, I would like to add that I am fully supportive of the work of the Public Accounts Committee in undertaking a review that will provide independent validation of the processes and procedures in place within the States of Guernsey to reduce the vulnerability of the organisation to crimes of this nature.

770

I would add, sir, that is the only information I have. I believe the Police will be communicating with the media later today. I doubt if I can answer any questions on this, but if any Member wishes me to do so, I will try.

775 **The Deputy Bailiff:** Thank you, Chief Minister.

Members, that is hot off the press. Technically, there is an opportunity to pose questions to the Chief Minister in the context of that Statement, but bear in mind what he said at the conclusion. Does any Member have a question for the Chief Minister?

780 Very well. Thank you, Chief Minister. That is useful information.

Questions for Oral Answer

785

CHIEF MINISTER

790 **Electricity price rises
Policy Council attitude**

The Deputy Bailiff: Now, Members, we are going to move to our Question Time, Questions on notice in accordance with Rule 5 of the Rules of Procedure.

795 The first set of Questions comes from Deputy Gollop, posed to the Chief Minister.
Deputy Gollop.

Deputy Gollop: Thank you very much, and I have got one or two supplementaries.
What is the Policy Council attitude to the recently announced electricity price rises?

800 **The Chief Minister (Deputy Harwood):** Mr Deputy Bailiff, I am obliged to Deputy Gollop for the Question.

The Policy Council views any increase in Island energy prices with concern because it is aware that these affect Islanders and local businesses adversely and also add to local inflation.

805 Policy Council is aware, however, that the Guernsey Electricity Company's operating costs have been significantly increased by its inability to import electricity throughout the summer.

The Policy Council is also aware that the inability to import as planned will persist until such time as new interconnection capacity to France or to the United Kingdom can be made available. We recognise this may be some time away.

810 Whilst the technical failures that have led to the immediate problems may not have been predictable, the situation has further demonstrated the need for long-term strategic thinking in energy supply, an illustration that the Energy Resource Plan adopted by the previous Assembly was an appropriate way of addressing the Island's future energy supply and usage.

815 **Deputy Gollop:** Supplementary.

The Deputy Bailiff: Is there a supplementary, Deputy Gollop?

820 **Deputy Gollop:** In the previous Assembly, there was a Policy Council Sub-Group. Has the Chief Minister plans to resurrect that Sub-Group or create an interdepartmental group, pushing forward the energy report issues?

The Deputy Bailiff: Chief Minister.

825 **The Chief Minister:** Deputy Gollop, this is an inter-departmental matter.

The Treasury and Resources Department and the Commerce and Employment Department are both affected and involved in the delivery of the Energy Resource Plan. We have had a meeting with both Ministers of both those Departments, together with myself. We have also had a briefing from the Guernsey Electricity Company and I am satisfied that we are making progress.

830 There is also, as you will be aware, a member of the Civil Service now dedicated to actually taking forward the development of the Energy Resource Plan.

The Deputy Bailiff: Does any other Member have a supplementary arising out of the Chief Minister's answer to the first of Deputy Gollop's questions?

835 Very well, second question, Deputy Gollop.

**Strategic Energy Report
Policy Council update**

840

Deputy Gollop: Thank you, Deputy Presiding Officer, sir.

Will the Policy Council be presenting to the Assembly an updated Strategic Energy Report within the next year?

845

The Chief Minister: Mr Deputy Bailiff, at the moment all parties are focusing on how importation capacity can be restored as swiftly as possible. I confirm that Guernsey Electricity is working closely with a number of States Departments, as necessary, to overcome the problem as quickly as it is reasonably possible. It is readily predictable that the Island's carbon emissions will be adversely affected by the present circumstance.

850

It is less clear however, that it will be necessary for an updated Energy Report to be compiled, since the overall direction of a long-term strategy is not affected.

Deputy Gollop: It is just that I am aware that there has been a fairly widely held concern about both Guernsey's energy security and, indeed, the strength of the cable link. So will we get an opportunity to consider strategic options in that respect?

855

The Chief Minister: Mr Deputy Bailiff, I can assure Deputy Gollop that the security of energy supply is the foremost of everybody's attention at the moment and that does relate... and in the response to the previous question, I did refer to the concerns and the importance of the connectivity with either the United Kingdom or with France. That is currently being investigated.

860

The funding of that will be a matter for my colleague possibly on the Treasury and Resources, the Minister for Treasury and Resources.

The Deputy Bailiff: Is this a supplementary arising out of the answer that has just been given, Deputy Storey?

865

Deputy Storey: Yes, sir, it is relating to the security of electricity supply and also the report that is envisaged.

870

I would ask the Minister, in light of the fragility of our electricity supply, whether the report will be looking at alternative additional links to energy supply, relying on a single cable being the reason for the fragility of our supply?

The Deputy Bailiff: Chief Minister, are you able to answer that question?

875

The Chief Minister: I believe I am, sir.

Thank you, Deputy Storey. The issue of security of supply is fundamental and clearly, as part of that, Guernsey Electricity are actually looking at a number of different options for establishing connectivity. I think the clear message is that you cannot rely upon *one* cable link.

880

Deputy Storey: Agreed.

**Financial support for home energy solutions
Policy Council strategy**

885

The Deputy Bailiff: Any further supplementaries at the moment, or shall we move to Deputy Gollop's third question?

890

Deputy Gollop.

Deputy Gollop: Yes, sir. It pertains more to the financial side of things.

Will the Policy Council be developing practical financial policies for grants and loans designed to maximise home insulation, renewables' use, the self-generation of power and, for the sake of argument, heat pumps.

895

The Deputy Bailiff: Chief Minister.

The Chief Minister: Mr Deputy Bailiff.

As Deputy Gollop will recall, the Energy Resource Plan contains a number of actions intended to examine mechanisms for improving energy efficiency and promoting low carbon energy.

900

I can confirm that the present situation of electricity supply has led the Policy Council to reconsider the priorities attaching to those actions. This has led to a general increase in the priority attached to energy efficiency actions.

It must be recognised, however, that within the overall context of restraint and safe spending, it is most important to ensure that all spending is well targeted and this certainly applies to spending on energy, as it does to other matters.

905

The Deputy Bailiff: Are there any supplementary questions arising from that answer, or generally on the topic of all three answers?

910

Very well, thank you Members.

HEALTH AND SOCIAL SERVICES DEPARTMENT

915

Ambulance Service

Identifying persons to carry out review

The Deputy Bailiff: Deputy Perrot, to pose a question to the Minister of the Health and Social Services Department.

920

Deputy Perrot.

Deputy Perrot: Mr Deputy Bailiff, in the light of published remarks from the Minister that his Department is to review the Ambulance Service, and in the light also of the possibility that any consultant retained for that purpose might involve the Department in substantial costs, would the Minister please state the efforts made by the Department to identify persons resident in the Bailiwick having the ability to carry out such a review either *pro bono*, or at relatively low cost to the Department?

925

The Deputy Bailiff: Thank you, Deputy Perrot.

930

Minister of the Health and Social Services Department, Deputy Adam, to reply.

Deputy Adam: Thank you, Deputy Bailiff.

HSSD will follow standard States procedures for procurement in its efforts to find a suitably qualified and experienced individual or company to undertake the review of the St John Ambulance and Rescue Service. This will involve expressions of interest being sought, both locally and from elsewhere, followed by a tendering exercise. This means that any local individual or company will be able to tender for the review.

935

The Deputy Bailiff: I do not see anyone seeking to draw my attention for a supplementary question.

940

945

Mental Health Law Delay in enactment

The Deputy Bailiff: So we will move on to Deputy James, who also has questions to pose to the Minister of the Health and Social Services Department.

950

Deputy James.

Deputy James: Thank you, sir.

Could the Minister give some explanation regarding the Mental Health Law, sir?

955 The States of Guernsey agreed to update the Mental Health Treatment Law, superseding the current Mental Health Treatment Law (Guernsey), 1939. I understand the first draft, outlining the proposed changes was, indeed, produced in 1983.

960 The first aspect of this question is: when does he expect the Guernsey Mental Health Law to become operative? Why has the enactment of this legislation been so delayed and are there any proposals to introduce legislation dealing expressly with the issues of capacity, having regard to the English Mental Capacity Act 2007?

I have a second question, sir, but could I ask after the Minister has answered the first?

The Deputy Bailiff: Yes, Deputy James, of course.

965 So the Minister of the Department, Deputy Adam, to respond to those three questions rolled into one.

Deputy Adam: Thank you, Deputy Bailiff.

970 The HSSD expects the Mental Health (Bailiwick of Guernsey) Law, 2010 ('the Law') to be operative with effect from April 2013.

975 The Privy Council granted Royal Assent to the Law in November 2011. Since then, HSSD has been establishing the framework to implement the Law, identifying legal representation, to represent patients to the Mental Health Review Tribunal, recruiting professional staff to discharge the new functions created by the Law, drafting a comprehensive code of practice to set out practice which is fully compliant with the Law and relevant Human Rights requirements and commissioning, writing and rolling out training in the Law to be provided to all key participants to ensure its effective operation.

980 The Law will be a great improvement on the existing legislation that dates back to 1938. It will provide a clear framework and process by which patients are treated with a clear right of appeal, through a tribunal process.

In England and Wales, the Mental Capacity Act 2005 does not form part of the Mental Health Act 1983. It is separate legislation but is considered to be complementary to the 1983 Act.

985 The absence of separate mental capacity legislation here will not mean that the Law will be outdated when it comes into force. The incorporation of comparable mental capacity legislation into the Law was considered but it was felt that it would cause unacceptable delays in the implementation of the new Law.

990 The development and subsequent implementation of the Mental Capacity Act 2005 in England and Wales took in excess of five years. Whilst current principles could be adopted in Guernsey, the full development and implementation is likely to take a similar timescale. It is recognised that there is a need for a Mental Capacity Act in Guernsey that would assist in the implementation of the new Law. It is hoped the States will prioritise this work in the coming years.

Thank you, sir.

995

**Nurses' compulsory holding power
Reason for eight hour period**

The Deputy Bailiff: Thank you, Minister.

1000 Deputy James to pose a second set of questions.

Deputy James: Thank you, sir.

1005 Sir, the section of the new Law is section 52(1) and that deals with the nurses' holding power. This provides for a compulsory holding period not exceeding eight hours. Given the parallel legislation in England, the nurses' holding power is up to a maximum period of six hours. Scotland's nurses challenged this and negotiated it to a reduced two-hour period.

In 2009, Guernsey determined it should adopt the six-hour period to mirror the practice in England. Can the Minister please explain why it is deemed appropriate that Guernsey should now require a period of eight hours?

1010

The Deputy Bailiff: Deputy Adam to answer that question.

Deputy Adam: Thank you, Deputy Bailiff.

Section 52 of the Mental Health (Bailiwick of Guernsey) Law, 2010 states that an authorised

1015 nurse may issue a nurse's holding certificate which allows a patient to be detained for a period not exceeding eight hours. This certificate can only be issued by a nurse who has been specifically authorised by the Department to issue such certificates, and may only be made in respect of a patient who has been informally admitted to an approved establishment, for example, the Castel Hospital and, in order to be informally admitted, the patient or, if under 16 years of age, a person with parental responsibility for the patient, must have consented to that patient's admission.

1020 An authorised nurse may only issue a holding certificate where the patient (a) is suffering from a mental disorder of such a degree that they ought to be detained either in the interests of their own health or safety, or with a view to the protection of others from harm; and (b) it is not practical to secure the immediate attendance of a responsible medical practitioner for the purpose of issuing a certificate under section 51 – holding powers exercisable by medical practitioners in respect of patients.

1025 In addition, the code of practice will also require the authorised nurse to assess (a) the likely arrival time for the doctor as against the likely intention of the patient to leave, as it may be possible to persuade the patient to wait until a doctor arrives to discuss the matter further; and (b) the consequences of the patient leaving the hospital before the doctor arrives, i.e. the harm that might occur to a patient or others.

1030 It should be noted that this power is rarely used in England and Wales as, in the majority of cases, informal patients are often prepared to wait for a doctor to arrive on site to make an assessment. Simply because a nurse's holding certificate permits the detention of a patient for *up to* eight hours does not mean that the patient will be detained for the maximum of eight hours. However, it does give greater flexibility which will be exercised in the best interest of the patient. For example, if a nurses' holding certificate were to be issued at midnight and then the patient settled, the patient could be seen the following morning.

1035 Whilst the HSSD has looked to the United Kingdom for the basis of this legislation, consideration has been given to ways in which it can be applied within Guernsey in the very best way possible, in the light of resources available.

1040 Thank you, sir.

The Deputy Bailiff: Thank you, Deputy Adam. Deputy James to pose a supplementary question.

1045 **Deputy James:** Thank you, sir.

1050 Can the Minister not anticipate – whilst he has explained that these cases, perhaps, are not on a regular basis – the dangers to both patient and staff, should a nurse feel it necessary to implement a holding power, to detain and hold that patient against their will for an eight-hour period? In my experience in psychiatry in excess of 40 years, on those rare occasions, there is a risk of doctors telephone prescribing tranquilisers for a patient to calm them, but it does worry me, sir, that Guernsey feels that an eight-hour period for a doctor to get to the Castel Hospital is, indeed, unacceptable.

1055 So, in essence, the question is, could he not anticipate the potential dangers to both patients and staff in a rare scenario such as this?

The Deputy Bailiff: Minister, are you able to answer that question?

Deputy Adam: Yes, thank you, Deputy Bailiff.

1060 I do not have so many years' experience of psychiatry, but I have a similar length of time as a medical practitioner. I would suggest that, sir, if there was a situation that arose, that caused a psychiatric nurse sufficient concern, then, in an emergency situation, a consultant psychiatrist would be able to be called out.

1065 What we are trying to say is that, in certain situations, the patient will settle down and there is no need for a consultant to be called out in the middle of the night.

1070 We have to look at a situation in an Island, where you have only got a certain number of consultants employed by a Department, if one can avoid them being disturbed during the night, is it not reasonable to do so? If it cannot be avoided, there is no reason why they should not be called out in the type of situation that Deputy James has suggested.

The Deputy Bailiff: Thank you, Minister.

Deputy Gollop: Can I ask a supplementary on this –

1075 **The Deputy Bailiff:** Deputy Gollop.

Deputy Gollop: Would the Minister, though, not agree that what is the justification for a Guernsey nurse in a Guernsey context, where perhaps psychiatric cases are not uncommon, but not as common as some city areas – thankfully – to have a longer period, without that consultation help from a qualified psychiatrist than their counterparts in, say, Glasgow or London – or the Isle of Wight, come to that?

The Deputy Bailiff: Minister, can you answer that question?

1085 **Deputy Adam:** Thank you, sir.

Deputy Gollop, the actual Mental Health Act says ‘up to eight hours’. It does not mean that the allocated person does everyone up to eight hours.

1090 Plus, sir, I have the document here, which is called the Mental Health Legislation – this is Draft 11. That means, sir, this went out to full consultation – this is a 2009 document I have here – throughout the Psychiatric Services in Guernsey, and this issue, whether it should be six or eight hours, I do not believe arose at that time. Thus I find it strange it is coming up now but, as I say, it clearly states *up to* eight hours. It is not a mandatory eight hours.

Thank you, sir.

1095 **The Deputy Bailiff:** Thank you, Minister.
Any further supplementary questions to pose on this topic? Very well.

1100 **EDUCATION DEPARTMENT**

**Supply teaching
Cost over last 12 months**

1105 **The Deputy Bailiff:** We will move on to Deputy Laurie Queripel to pose a Question to the Minister of the Education Department.

Deputy Laurie Queripel: Thank you, Mr Deputy Bailiff.

1110 Sir, I would like to ask the Minister for Education, in financial terms how much has supply teaching cost the Education Department during the course of the last 12 months?

The Deputy Bailiff: Thank you.
Deputy Sillars, Minister of the Education Department, to reply.

1115 **Deputy Sillars:** Sir, thank you.

Supply teachers are employed to cover sickness and absences, owing to staff training or other approved leave of absence. Occasionally, they are used to cover difficulty in recruitment or maternity leave commencing mid-term.

1120 A centrally held budget covers the cost of supply teacher cover for all sickness leave. For training, supply costs are booked against a central INSET – ‘In Service Educational Training’ – budget, if the course is provided or organised centrally.

Each school also has a delegated training budget to cover the costs of staff attending additional or specialised training and any associated supply cover requirements.

1125 The use of supply teachers is covered in the Conditions of Service for School Teachers in Guernsey.

In 2011, the Education Department spent approximately £1.4 million on the supply teachers to cover sickness, leave and training. As highlighted in its response to the Review of Primary Education, we are currently reviewing the use of supply teachers and management of the variable staff cost budget as part of our wider review of further devolved funding to schools. This review will help ensure the best value is achieved from the Island’s investment in its Education Service.

Thank you.

The Deputy Bailiff: Supplementary question, Deputy Queripel.

1135 **Deputy Laurie Queripel:** Yes, thank you, sir.

Bearing in mind the Minister's answer, could I ask the Minister to break down this figure so as to indicate how much it was extended to cover teachers absent for personal reasons, illness, etc, and how much to cover teachers on moderation assessment courses, which I believe even encompass things such as assessing if children hold scissors correctly?

1140

The Deputy Bailiff: Deputy Sillars, are you in a position to answer that question?

Deputy Sillars: Generally, yes, sir.

Approximately 70% is to cover the sickness leave of absence and 30% covering the training.

1145

The Deputy Bailiff: Deputy Laurie Queripel, for another supplementary question.

Deputy Laurie Queripel: Thank you, sir.

Can I ask the Minister, sir, are we, in fact, getting close to the UK model of league tables and targets?

1150

Does this mean that the number of courses of this type will only increase, thus placing an extra burden on the Department's resources and, if so, is this extra expenditure really necessary when, in fact, the Education Department has to identify and implement savings?

Thank you, sir.

1155

The Deputy Bailiff: Minister, are you in a position to answer that question?

Deputy Sillars: It is more a question of understanding, sir.

We are reviewing, as I said earlier, the whole of the £1.4 million for supply teachers. Part of that is 'Is it necessary?', 'Who is doing what?' and everything else. We accept there is a huge amount of money being spent and it is only right that we really drill down into the amounts that we are spending, who is getting it and why.

1160

As I said, we are doing that anyway in our budget, but also we are looking at the devolvement of certain financial services back into the schools, again to drill down and to drive those cost savings.

1165

I hope that answers it.

Deputy Laurie Queripel: Okay, thank you.

1170

The Deputy Bailiff: Any further supplementary questions on supply teaching costs?

CHIEF MINISTER

1175

States communications with public and media Need for improvement

The Deputy Bailiff: Then we move on to Deputy Lester Queripel to pose a Question to the Chief Minister.

1180

Deputy Queripel.

Deputy Lester Queripel: Thank you, sir.

Bearing in mind the public grilling Deputy Adam had to endure on a recent Sunday phone-in, which was in relation to the future of The Croft, I would like to ask the Chief Minister the following Question: does he think there is room for improvement regarding communication within the States, from the States to the people of Guernsey, and to the media?

1185

The Deputy Bailiff: Chief Minister to reply.

1190

The Chief Minister (Deputy Harwood): Deputy Bailiff, the short answer to the Question is yes. *(Laughter)*

The Deputy Bailiff: And the long answer is going to be...?! *(Laughter)*

1195

The Chief Minister: Sorry, I will, however, elaborate.

1200 The Policy Council is working towards a consistent approach to communications and, in June 2012, it agreed to develop an approach that, firstly, engenders a culture of openness, secondly, has a presumption of disclosure, thirdly, supports a proactive publication of information and, fourthly, has a proportionate approach, so the cost is proportionate to the benefit.

By way of example of works currently being undertaken in order to put these principles into practice, the following can be exemplified:

1205 Firstly, the development of a draft States-wide code of practice on communicating and publishing information, in line with the development of data retention guidelines.

Secondly, a social media strategy is being drafted. It will consider how the States might make further use of Twitter and other social media tools – perish the thought! For example, the States has recently started to use social media to publicise press releases published on the states website.

1210 Thirdly – and I apologise for the wording here – the use of corporate branding guidelines is also being looked at.

Fourthly, staff are working to improve internal communications through the development of the intranet.

Next, the development of a regular update from the Policy Council to the general public, which will be available on the website.

1215 Finally, as a tangible example of work that has already been put in place through improved communications between Departments in the States, I refer to the Protocol on Reports and Presentations. This was established at the end of August by the Deputy Chief Minister, in response to issues that Deputies had raised, and endeavoured to ensure that Deputies see reports and publications in good time before general publication, so that they are better informed and better able to inform the public.

1220 Whilst the States of Guernsey, unlike the governments of Jersey and the Isle of Man, does not have a dedicated communications unit, there exists an informal network of communication officers working across the States. For example, the Policy Council's External Relations team, in addition to its other duties, regularly liaises with officers in Departments across the States who are responsible for departmental communication, in order to work together, to produce joined-up responses to corporate communications issues and on matters which may have an impact on the Island's reputation.

I can assure Deputy Lester Queripel that there is a clear commitment from the Policy Council to further improve communications and that much work is already being done in that respect.

1230 **The Deputy Bailiff:** Thank you, Chief Minister.

Deputy Lester Queripel, do you have a supplementary question.

Deputy Lester Queripel: Yes, please, sir.

1235 I thank the Minister for his reply and I would like to ask a supplementary, sir.

A fellow Deputy recently suggested to me that he thought it would be a good idea for the Policy Council to hold quarterly public surgeries, perhaps in a school hall, where members of the public can put their question directly to Ministers. Could the Chief Minister tell me, please, whether he thinks that is an idea worth considering?

1240 **The Deputy Bailiff:** Chief Minister to reply.

The Chief Minister: Mr Deputy Bailiff.

1245 I take note of the suggestion and I will put it to my colleagues at Policy Council at a future meeting.

The Deputy Bailiff: Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

1250 Bearing in mind that the biggest problem that Deputy Adam encountered on the phone-in to which the questioner referred was that he had not been adequately briefed by his own staff, is the Chief Minister able to advise the States whether the review of communication that he referred to could possibly include communication not just between the States and the public, but within States Departments?

1255 **The Deputy Bailiff:** Chief Minister.

The Chief Minister: Mr Deputy Bailiff, I believe the experience that Deputy Hunter endured

1260 on that particular phone-in – (**The Deputy Bailiff:** Deputy Adam.) Sorry, Deputy Adam – Hunter Adam – endured on that occasion has been reflected by a firmer view taken within individual Departments as to communication of relevant material to the relevant Minister.

The Deputy Bailiff: Deputy Luxon, supplementary question.

1265 **Deputy Luxon:** Sir, recently the Chief Minister wrote to all Members with an update of what the Policy Council had been doing over the recent few months. Would the Chief Minister consider continuing with a frequent flow of updates to the 36 Members that are not members of the Policy Council and, indeed, think about possibly even quarterly, half yearly, or yearly, fuller updates of progress against perhaps the Strategic Plan, so that Members can be kept fully up to date in a fuller way?

1270

The Deputy Bailiff: Chief Minister to respond.

The Chief Minister: I thank Deputy Luxon for that question.

1275 Members will be aware that I did issue a quarterly bulletin. I had modest feedback in response to that, but it is certainly a practice I would like to continue and I would like to encourage all Ministers possibly to adopt a similar approach.

The Deputy Bailiff: Deputy Jones.

1280

Deputy David Jones: Can I ask the Chief Minister whether he has any plans to introduce a new social networking site for the Policy Council called Twaddle? (*Laughter*) It could be funded from the advertising revenue of the leader of the Liberal Party, who is now currently endorsing the Channel Islands as a safe place to do business.

1285

The Deputy Bailiff: Chief Minister, are you minded to reply to that?

The Chief Minister: I am happy to respond to the question.

As Deputy Jones will know, probably he and I are, in terms of social media, the strict extremity. I think we are the dinosaurs.

1290

I am sure we will be happy to explore any form of social media that any Member of the States wishes us to consider. That will be a matter for my colleagues on Policy Council.

The Deputy Bailiff: Deputy Adam.

1295

Deputy Adam: Sir, I am allowed to make some comments. It seems my performance on the Sunday phone-in was –

The Deputy Bailiff: You are entitled to pose a supplementary question at the moment. You can pose a question to the Chief Minister. You can, if you cannot –

1300

Deputy Adam: I would prefer simply to point out to the Members of this Assembly that the Members of the Department –

1305

Several Members: No, you can't!

The Deputy Bailiff: Pose a question, Deputy Adam, at this time, but you cannot make a statement.

1310

Deputy Adam: The Chief Minister cannot answer the question... (*Laughter*)

The Deputy Bailiff: Any further supplementary questions on this topic?
Very well –

1315

Deputy Trott: Only to say, sir, is the Minister of Health and Social Services not aware that he can couch the question in a way that said 'Is the Chief Minister aware?' (*Laughter*)

The Deputy Bailiff: Deputy Trott, if that was a question to the Chief Minister I would permit it, but it wasn't! (*Laughter*) Therefore, it is ruled out of order. (*Laughter*)

1320 Although 30 minutes have now passed, I am not going to exercise my discretion in the proviso to Rule 5(1) to curtail Questions at this stage, because, in my view, there is time to move on to the other Questions that Members wish to pose.

So, Deputy Lester Queripel again, this time a question to be posed to the Minister of the Treasury and Resources Department.

1325

TREASURY AND RESOURCES DEPARTMENT

1330

States loan scheme to Islanders Plans for reintroduction

Deputy Lester Queripel: Thank you, sir.

1335 Some years ago the States operated a States loan scheme to Islanders. Could the Treasury and Resources Minister please tell me if there are any plans to reintroduce this scheme, preferably with low-interest repayments that are affordable to Islanders and also to broaden out the scheme from lending money exclusively to first-time buyers to also include lending money to Islanders wanting to start a business and even to clubs and organisations needing money to upgrade their facilities?

1340

The Deputy Bailiff: Minister of the Treasury and Resources Department to respond.
Deputy St Pier.

Deputy St Pier: Thank you, sir, and many thanks to Deputy Lester Queripel for his Question and I do share the concerns implicit in his Question.

1345 It is true that residential property in Guernsey has risen in relative terms over the course of the last decade. Figures published by the States, which are readily available, show that the average price to earnings ratio has increased to 15.1 from 13.2 over the period 2006-11. Of course, the housing market is just like any other market, a function of supply and demand. Rather than effectively support higher prices by efforts at increasing demand through loan subsidies, current States policy, as determined by the Housing Department, is aimed at the improvement of the supply of affordable houses, both through provision of new social housing and growth of the partial ownership scheme. This approach is proving successful.

1350 I, too, lament the fact that lower-income earners have a hard time getting on that first rung of the property ladder, but Government subsidies such as the Home Loans Scheme, whilst laudable in their objective, do actually result in higher prices in the long run. The Partial Ownership Scheme, however, benefits a greater number of people than the Home Loans Scheme, because more properties can be made available and the parameters of the Partial Ownership Scheme are such that properties can only be sold to new partial owners.

1355 Also, whereas the Home Loans Scheme would have helped people buy *existing* properties, by investing in *partial* ownership, the States is helping people to buy, not only without extending themselves, but also it is building *new* properties to add to the stock of affordable housing. So this helps dampen the effect of house price inflation to the benefit of all home buyers. I do actually believe that we, as the States, should be reviewing other policies that provide support for higher prices as, in the long run, artificially high property prices are in no-one's interests, except possibly lenders, developers, speculators and investors. I do assure Deputy Lester Queripel that my Board has this in mind.

1360 Moving on to the issue of direct lending to firms and clubs, for completeness I should mention that we do, of course, still have a Farm Loan fund, the Sewer Connection Loan fund and the Sports Loan fund, but I would like to state that, while economic conditions are currently... [*Inaudible*] direct lending by Government to firms is unorthodox policy and, while it has been considered and is being attempted by the UK as a method of boosting credit to firms in the UK, this is, of course, after two rounds of monetary easing, which have not had sufficient effect.

1370 Our economy, of course, is small by comparison with the UK and it is an export-orientated economy. Our general demand and economic conditions are driven by external factors and I am not sure that conditions have actually worsened to such an extent that supply of credit to local firms is constrained, as it is in the UK, such that we should be considering such unorthodox measures. Whilst the slowdown in our economy this year has been unwelcome, it has been driven by these external events and conditions may well improve in the coming months, if the optimism following the recent measures directed at the euro by the ECB and the German constitutional court translates into sustained, increased economic confidence. If that is not the case, then it *may* be

1375

1380 appropriate to consider more orthodox stimulus measures at some point over the next 12 months but, at this stage, I do not believe that to be likely.

On a final point, my Board is, indeed, open to consideration with other Departments and most particularly, of course, Commerce and Employment for proportionate long-term policy measures that may positively encourage economic development including, for example, a loan guarantee scheme. This is something I have discussed on a number of occasions with the Minister for Commerce and Employment. In this regard, following the Oxford Economics Report earlier in the year, no doubt we will be looking to responses to their forthcoming Commerce and Employment consultation on an economic development strategy to help guide our thinking and policy development in this area.

1390 I would also hope that, if firms felt that the supply of local credit were an issue, they would seek to make this known through the consultation, or directly to the States or, indeed, to Deputy Lester Queripel himself.

Thank you, sir.

1395 **The Deputy Bailiff:** Thank you, Minister.
Any supplementary questions on that particular answer. No?

1400 **Income Tax Office backlog**
Current position

The Deputy Bailiff: So the final set of Questions in this instance are questions by Deputy Soulsby to the Minister of the Treasury and Resources Department.

1405 **Deputy Soulsby:** I have three Questions, sir.

Is it possible I have one supplementary, but I would like to do that after the three Questions have been answered, because they all relate to each other.

1410 **The Deputy Bailiff:** I suggest, then, that we take each Question separately. Obviously, if any other Members have supplementary questions they can pose them after the individual answers, but your supplementary is noted for the end of all of them.

Deputy Soulsby: Right.

1415 My Questions arise from the recent announcement from the Income Tax Office that it would be closing its phone lines on Thursdays and the public counter on Thursday afternoons for the next three months, to process a backlog of returns and assessments.

My first Question is, what is the current position regarding the number of returns and assessments that require action from the Income Tax Office?

1420 **The Deputy Bailiff:** Minister to reply.

Deputy St Pier: Thank you, sir.

1425 It is, of course, normal for the Income Tax Office to be in arrears in processing tax returns. It issues, as we all know, tax returns in bulk at the beginning of each year and the majority of these are actually returned, duly completed, within a few months. Of course, if you try to staff the tax office up to deal with returns as they came in, there would be a significant number of staff required at the beginning of the year and fewer at the end of the year, and that is simply not practical, given the technical knowledge required by staff and their availability in the local market.

1430 So, for example, in 2012, 35,000 returns were issued to individuals in employment, which is the largest group of taxpayers we have, which are dealt with by 10 tax officers. By the end of March 2012, 19,600 returns had been completed and this represents 56% of the annual workload of those officers, having been received only a quarter of the way through the year. By the end of May this had risen to 71% of the returns received, 42% of the way through the year. This, of course, as I say, is normal and, for many years, has been a feature of the work of the Income Tax Office and, with a full complement of fully-trained tax officers, it can be managed.

1435 Over the years, in common with many public and private sector organisations, of course, there have been occasions when the tax officer group has experienced resourcing problems, following resignations and so on and, in the last two years in particular, this has resulted in there being a higher number of unexamined returns than normal. So, again, by way of example, the number of

1445 returns received by the end of August was 29,500, of which 10,800, or 37%, were still waiting to be examined. This is higher than would normally be expected at this point in time. In 2010, 31,000 returns, of which 7,350 had not been examined, or 24%. The relevant figures for 2011 were actually 31,000 received and 11,200 outstanding, so that is 36%, in other words, about the same as this year.

Thank you, sir.

1450

**Income Tax Office backlog
Number of qualified staff**

The Deputy Bailiff: Deputy Soulsby, then, to pose her second Question.

1455

Deputy Soulsby: What is the current position regarding the number of staff suitably qualified to deal with the backlog?

The Deputy Bailiff: Minister to reply.

1460

Deputy St Pier: The reasons for the backlog are principally attributable to the relative inexperience of some of the tax officers who deal with the employed sector. As I mentioned, there are currently 10 tax officers, five of whom are in various stages of training. Of these five officers, two are at an early stage in their training and they do not yet have an allocation of cases assigned to them. The other three trainees have allocations, which are smaller than would otherwise be the case for a fully-trained officer. Inevitably, of course, this has the consequent impact on the size of the allocation of cases that fall to the more experienced officers. In other words, they are asked to deal with significantly more cases.

1465

It is also, of course, necessary for the more senior officers to spend considerably more time checking the assessments of the trainee tax officers, to facilitate their training and, of course, to ensure accuracy. This obviously has a knock-on effect on the time available to experienced members of the staff affected.

1470

Whilst all the experienced officers have shown a high level of commitment in working around this increased pressure, for which I think they should be commended, we have got a situation that inevitably leads to arrears being cumulatively greater than normal.

1475

The principal reason for there being such a relatively high number of trainees at present is that the tax officer group is the one area that is drawn on when there are, at times, resignations and promotions elsewhere in the Tax Office. This often means that an experienced officer will leave the team by moving into another role and will be replaced by a new recruit and so the cycle begins again. Whilst this is an issue that has always existed, there are occasions when the outcome cannot be managed within normal working procedures or dealt with through overtime and, on such occasions, other measures, such as the one we are talking about, have to be considered.

1480

1485

**Income Tax Office backlog
Anticipated date for clearance**

The Deputy Bailiff: Thank you, Minister.
Deputy Soulsby, your third and final Question on notice.

1490

Deputy Soulsby: When is it envisaged that the backlog will be cleared?

The Deputy Bailiff: Minister to reply.

1495

Deputy St Pier: Thank you, sir.

The recent initiative to close the Tax Office switchboard for a day out of the working week and the public counter for two hours is, of course, intended to allow staff to concentrate on the assessment of returns, something which is, of course, more difficult if there are many distractions throughout the day. This has already proven to be beneficial, as in the first two Thursdays of this initiative the Tax Office has examined 476 returns, whereas the total output per week at the end of July had been less than 200, due to their having to deal with other matters, such as telephone calls,

1500

taxpayer interviews and correspondence.

1505 The Director of Income Tax does, of course, recognise that any change to office opening hours and the restriction of telephone contact is inconvenient to the taxpaying public and that is why he did ask my Board to authorise the three-month trial, so that the effectiveness of the initiative could be evaluated. The Director's target is that, after a three-month trial period, the number of outstanding returns will be more in line with that which would normally be expected at the end of November.

1510 In addition to this, the Director has been instigating some changes to procedures in order to reduce the burden on both taxpayers and the Tax Office. So, for example, those employees who only have a single person's tax allowance and are only receiving employment income have been identified and notified that they have been relieved from the requirement to complete a tax return each year. More individuals will be added to this group as they come to the attention of the Tax Office and this, of course, is beneficial to those taxpayers directly affected and the tax officers, 1515 who would not have to examine those returns each year.

Another initiative, which will commence in 2013, will mean that for an estimated 10,000 other taxpayers who have been identified as having relatively simple financial affairs, their returns will be processed by other officers who will be able to carry out minimal compliance checks and this is 1520 comparable to how the most straightforward returns are currently processed automatically when they are filed online. The aim, of course, is to give the taxpayer team more time to use their skills to deal with taxpayers who have more complicated affairs or those who need assistance or advice, rather than spending the time simply processing simple returns.

Whether or not these compliance issues will prove efficient to ensure that similar arrears do not occur next year will depend on whether there continue to be calls on the tax officer group over the 1525 next twelve months to fill vacancies created elsewhere or, indeed, if there are any unexpected resignations and so on. In the short term, a period of relative stability would, of course, enable the experience levels of the tax officer group to increase which, of course, would be to their benefit as well as that of the taxpaying public.

1530 In the long term, however, the procedural initiative set out above and other similar projects that the Director has under consideration, should lead to further efficiencies and thus to improvements in service levels, particularly if combined with an even greater take up of online filing of tax returns. My Board has also requested that the Department reconsider whether it is possible to increase the number of trainees and tax officers within the constraints of the Department's existing budget and head count and this is still under review by the Chief Officer and the Director of 1535 Income Tax as part of the Budget process for 2013.

Thank you, sir.

1540 **The Deputy Bailiff:** Deputy Soulsby, then, to pose a supplementary question and I have noted you, Deputy Trott.

Deputy Soulsby: Yes, sir, I would like to thank the Minister for his detailed responses.

1545 I would just like to ask him whether the Treasury and Resources Department have had any discussions with the Social Security Department regarding whether there are any efficiency gains to be made by working closer together in terms of assessments and collections?

The Deputy Bailiff: Minister, can you respond to that?

1550 **Deputy St. Pier:** I can confirm that I have had the briefest of conversations with the Minister for Social Security.

I think both Departments recognise that is a long term objective for both Departments: it is dependent upon being able to bring, in particular, the systems closer together and I think it is fair to say it is an obvious objective in due course.

1555 **The Deputy Bailiff:** Thank you.
Deputy Trott

1560 **Deputy Trott:** Sir, can the Minister of T & R give this Assembly an unequivocal assurance that those who have yet to receive their assessment need not fear *any possibility* of retrospective taxation levies?

The Deputy Bailiff: Minister, are you able to answer that question?

1565 **Deputy St. Pier:** Sir, I can confirm to Deputy Trott that, of course, it is not the Department's policy to impose any penalties on taxpayers if the delay is by the Department rather than the taxpayer.

Deputy Trott: Sir, with respect, that is not the question I asked. Would it help if I repeated it again? *(Laughter)*

1570 **The Deputy Bailiff:** If you pose the question again, then, Deputy Trott, we will check to see whether or not the Minister can properly respond to that today or whether it needs to be dealt with subsequently.

1575 **Deputy Trott:** Yes, sir.

A trend is developing here with my questions!

Can the Minister of T & R give this Assembly an unequivocal assurance that those who have yet to receive their assessment need not fear *any possibility* of retrospective taxation levies? It is a 'yes' or a 'no', sir.

1580 **The Deputy Bailiff:** And again, Minister, if you are concerned that you might be giving an inaccurate or misleading answer, then there is no requirement for you to answer it.

1585 **Deputy St. Pier:** Sir, I feel I would be giving an inaccurate and misleading answer because I don't understand the question. *(Laughter)*

The Deputy Bailiff: Deputy Trott, I fear, once again, that you are put in the position of pursuing this through other avenues.

Do any other members – Deputy Luxon.

1590 **Deputy Luxon:** Deputy Bailiff, I am one of those people guilty of not submitting my tax return online (**A Member:** Shame!) and, indeed, I am also one of those guilty of phoning the tax department, not frequently, but from time to time and I have to say that, although it is very frustrating trying to get through, there is no doubt that when you do get through you get very professional and genuine help – although not usually the answer you would prefer to have!
1595 *(Laughter)*

Could I just pose to the Minister of T & R, sir: every year, when Christmas comes, the Post Office deal with tenfold the amount of mail and they do that in a four week period and Easter brings Easter eggs where, again, businesses have to deal with that peak. Every year we have this same issue. Could I ask the T & R Minister, although I have heard some of the changes and developments that the Board are looking at, is it a resource issue because we know this backlog is going to come every year and is there not something we can do more fundamentally to try and help the Department deal with this peak?

Thank you, sir.

1605 **The Deputy Bailiff:** Thank you.

Minister, are you able to give Deputy Luxon an answer to that question?

1610 **Deputy St. Pier:** Yes, sir, with respect, I feel that I had attempted to answer some of that question in my responses to Deputy Soulsby.

Some of the longer term initiatives by the Department, including online filing, automatic processing of returns, reducing the number of returns that are required from the tax-paying public, are all part of that initiative to avoid the problem which Deputy Luxon is referring to, sir.

1615 **The Deputy Bailiff:** Thank you, Minister.
Deputy Sherbourne.

Deputy Sherbourne: Thank you, sir.

1620 I would like to ask the Minister if he is in a position to explain, or to give an assessment, as to whether the decision by Income Tax to levy fines for late returns has actually rebounded on them and that the actual workload which was spread over a twelve month period is now creating very early backlogs?

The Deputy Bailiff: Minister, are you able to... I think the question should be about

1625 surcharges rather than fines, but are you able to answer it?

Deputy St. Pier: I don't think I can comment on that without research, sir.

The Deputy Bailiff: Okay and, Deputy Sherbourne, if it is something you wish to pursue, a Rule 6 question in the first instance might be helpful.
1630 Anyone else before we close Question Time.
Deputy Lowe.

Deputy Lowe: Sir, it is not in relation to that question but it is just a matter I am – I am sorry, sir, but ...
1635

The Deputy Bailiff: Is it a question arising out of the answers given to the questions that were posed by Deputy Soulsby?

Deputy Lowe: No, it is a question from the Chief Minister, before, about the fraud – and I just wanted to ask are the States being left behind, sir, because it is clearly posted here that the *Guernsey Press* posted at five to ten that they had *exclusive* coverage and accessed with the Police the raid in London and yet we, as the States Members, were last to know that.
1640

Therefore, have the *Press* got more exclusive information than, indeed, the Chief Minister and Policy Council and, indeed, Members, over this fraud?
1645

The Deputy Bailiff: I do not know if the Chief Minister will be able to say whether or not the *Press* has got more information than *he* has got because he may not know what information the *Press* has got!

All I can say, Deputy Lowe and Members of the States, is that I was only asked a matter of a couple of minutes before the Chief Minister gave his Statement, whether I would give permission for that Statement to be made, although I had been forewarned it might be possible at *some stage* but I did not know when, during the course of this meeting.
1650

Deputy Lowe, if that is something you wish to pursue I think you have to do it outside of the context of where we are in this meeting.
1655

Focused questions and answers
Direction by the Deputy Bailiff

The Deputy Bailiff: Members, I hope you are going to forgive me for taking up more of your time but that concludes our Question Time this month. On my calculation, it was some fifty-three minutes this time.
1660

I am a firm believer in Question Time as being a proper exercise of accountability and information sharing in a parliamentary democracy. Although presiding officers and, indeed, their deputies, traditionally give a degree of latitude to those answering questions to do more than provide the answers sought by the questioner, some of the answers given *this* month, it seems to me, have expanded more into a form of 'statement' than being confined to a direct answer to the questions posed.
1665

To take the one example – and I am sure Deputy Sillars will forgive me – the question about the cost of supply teaching in the last twelve months really only called for the amount actually spent to be given by way of reply. There may, of course, be some merit in those answering questions volunteering information about the reasons for the amount spent in this instance, but that information might equally have been elicited through appropriate supplementary questions *if*, and I stress the *if*, a Member wished to pursue the matter to that level of detail.
1670

Members, and particularly those Ministers and Chairmen answering Questions, might wish to have regard to what happens in other parliamentary assemblies, where Question Times are often much pithier affairs, during which Members extract information into the public domain through focused questions and answers rather than the more discursive style commonly adopted here in the States of Deliberation.
1675

Now I offer those thoughts at this stage near the start of this term and very much from the perspective of being the 'new boy' in this Chair. I do not have any desire to dictate any particular approach going forwards but, perhaps, to enable some further thought by all those concerned to be given now to the best way to achieve the efficient and effective despatch of business at States
1680

1685 meetings. (**Members:** Hear, hear.)

Billet d'État XX

1690

The Sewerage (Guernsey) (Amendment) Law, 2012, approved

1695

Article I.

The States are asked to decide:

Whether they are of the opinion to approve the draft Project de Loi entitled "The Sewerage (Guernsey) (Amendment) Law, 2012" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

1700

The Deputy Bailiff: Now, Members, let us move on to the business of the month and turn to legislation and have your Brochures ready.

1705

The Deputy Greffier: Billet d'État XX, Article I, Projet de Loi entitled The Sewerage (Guernsey) (Amendment) Law, 2012.

The Deputy Bailiff: Thank you.

Now, Members, the draft Projet de Loi is found at pages 1 to 4 in the Brochure.

Is there any debate on it? Does the Minister wish to say anything at all?

1710

Deputy Luxon: No need unless the Members have questions, sir, thank you.

The Deputy Bailiff: Thank you very much. Well, there being no debate, we will move to the vote, then.

1715

Those in favour of the Projet: those against?

Members voted Pour.

1720

The Deputy Bailiff: I declare that carried.

The Health and Safety at Work (General) (Guernsey) (Amendment) Ordinance, 2012, approved

1725

Article II.

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled "The Health and Safety at Work (General) (Guernsey) (Amendment) Ordinance, 2012" and to direct that the same shall have effect as an Ordinance of the States.

1730

The Deputy Greffier: Article II, The Health and Safety at Work (General) (Guernsey) (Amendment) Ordinance, 2012.

1735

The Deputy Bailiff: Members, this draft Ordinance is found at pages 4 and 5 in the Brochure.

Is there any debate on it at all? No?

In that case, we will move straight to the vote.

Those in favour of the draft Ordinance: those against?

1740

Members voted Pour.

The Deputy Bailiff: I declare that carried.

1745

**The Merchant Shipping (Bailiwick of Guernsey) Law, 2002
(Commencement) Ordinance, 2012, approved**

Article III.

1750

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled “The Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2012” and to direct that the same shall have effect as an Ordinance of the States.

1755

The Deputy Greffier: Article III, The Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2012.

The Deputy Bailiff: Members of the States, this (Commencement) Ordinance is found at pages 6 to 8 in the Brochure.

1760

Once again, does any Member wish to speak in debate on this Article? No?

Once again, then, we will move to the vote.

Those in favour: those against.

1765

Members voted Pour.

The Deputy Bailiff: I declare that one carried.

1770

**The Merchant Shipping (Convention on Limitation of Liability for Maritime Claims)
(Bailiwick of Guernsey) Ordinance, 2012, approved**

Article IV.

The States are asked to decide:

1775

Whether they are of the opinion to approve the draft Ordinance entitled “The Merchant Shipping (Convention on Limitation of Liability for Maritime Claims) (Bailiwick of Guernsey) Ordinance, 2012” and to direct that the same shall have effect as an Ordinance of the States.

1780

The Deputy Greffier: Article IV, The Merchant Shipping (Convention on Limitation of Liability for Maritime Claims) (Bailiwick of Guernsey) Ordinance, 2012.

The Deputy Bailiff: Members of the States, this draft Ordinance is the most substantial of those in the Brochure and it runs from pages 9 to 35.

1785

Is there any comment from the Minister or debate about this Ordinance?

Very well, then, we will move to the vote.

All those in favour: those against.

1790

Members voted Pour.

The Deputy Bailiff: I declare that carried.

1795

**The Mont Varouf School (Guernsey) Law, 2012
(Commencement) Ordinance, 2012, approved**

Article V.

The States are asked to decide:

1800

Whether they are of the opinion to approve the draft Ordinance entitled “The Mont Varouf School (Guernsey) Law, 2012 (Commencement) Ordinance, 2012” and to direct that the same shall have effect as an Ordinance of the States.

1805

The Deputy Greffier: Article V, The Mont Varouf School (Guernsey) Law, 2012 (Commencement) Ordinance, 2012.

The Deputy Bailiff: Members, you will find this short draft (Commencement) Ordinance on page 36 in the Brochure.

I take it there is no debate and, therefore, we will move to the vote.

1810 All those in favour: those against.

Members voted Pour.

The Deputy Bailiff: Similarly, I declare that carried.

1815

**The Sea Fish Licensing (Bailiwick of Guernsey) Law, 2012
(Commencement) Ordinance, 2012, approved**

1820 *Article VI.*

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled “The Sea Fish Licensing (Bailiwick of Guernsey) Law, 2012 (Commencement) Ordinance, 2012” and to direct that the same shall have effect as an Ordinance of the States.

1825

The Deputy Greffier: Article VI, The Sea Fish Licensing (Bailiwick of Guernsey) Law, 2012 (Commencement) Ordinance, 2012.

1830 **The Deputy Bailiff:** Once again, this is another short (Commencement) Ordinance, at page 37 in the Brochure... (*Technical interference*) If somebody has an electronic device can they turn it off, or make it so that it does not interfere with the sound system, please. Thank you.

Is there any debate on this matter?

Yes, Deputy Trott.

1835

Deputy Trott: Sir, briefly – which is more than can be said for the duration of time that this issue has been under consideration by this Assembly – in fact, it was this matter in the mid-nineties that brought me into politics, sir, when I first served as a non-States Member of the Sea Fisheries Committee. Over the years, I would like to think that I have assisted the cause.

1840 However, there are two Members of the States, there are two Members of this Assembly, that require special mention and whilst it is unusual for Members to praise Crown appointees I intend to on this occasion, because the two Members that are worthy of special accreditation are Her Majesty’s Greffier, who is not with us today, who for many years in his former capacity as Senior Sea Fisheries Officer worked diligently to bring this matter to a conclusion, as have his successors; in particular, sir, a Member of the States who was, at the time, a young lawyer, tenacious, 1845 dedicated, and dare I say, well briefed: I do, of course, refer to today’s Presiding Officer, the Deputy Bailiff, who has had a *very* material impact on the satisfactory outcome of this issue. You have my thanks, sir.

1850 **The Deputy Bailiff:** Thank you, Deputy Trott, and also on behalf of the Greffier. (**A Member:** Hear, hear.)

I gather you are speaking in favour of approving (*Laughter*) the Commencement Ordinance!

Deputy Trott: You were always the sharpest of them all, sir! (*Laughter*)

1855

The Deputy Bailiff: Deputy Stewart.

Deputy Stewart: Sir, if I may just clarify, for members of the public, I am making just a brief statement from Commerce and Employment on this.

1860 Sir, this enactment Ordinance is the final legislative requirement needed to introduce the Bailiwick Fishing Vessel Licensing Regulation. This is going to control all commercial fishing activity within the 12-mile limit from 1st February 2013 and something that, as Deputy Trott has pointed out, is something long awaited.

1865 I would also like to congratulate the Senior Sea Fisheries Officer, Chris Morris, and his team for their hard work and diplomacy in obtaining this milestone, which is going to preserve and protect our waters and will give a massive boost to our fishing industry.

Thank you, sir.

1870 **The Deputy Bailiff:** Thank you very much.
Does anyone else wish to speak on this item of legislation?
Very well, we will move to the vote, then.
All those in favour; all those against.

Members voted Pour.

1875 **The Deputy Bailiff:** I declare that unanimously carried.

Ordinances and Statutory Instruments laid before the States

1880

The Deputy Bailiff: Deputy Greffier, shall we next mention the items of legislation being laid before the States? First the Ordinances.

1885 **The Deputy Greffier:** Yes, the following Ordinances are laid before the States:
The Republic of Guinea-Bissau (Restrictive Measures) (Guernsey) Ordinance, 2012;
The Belarus (Freezing of Funds) (Guernsey) (Amendment) Ordinance, 2012.
The following Statutory Instruments are also laid before the States:
The Compulsory Acquisition of Land (Guernsey) (Prescribed Forms) Regulations, 2012;
1890 The Competition (Calculation of Turnover) (Guernsey) Regulations, 2012;
The Competition (Merger and Opinion Application Fees) (Guernsey) Regulations, 2012;
The Competition (Prescribed Mergers and Acquisitions) (Guernsey) Regulations, 2012;
The Offences (Fixed Penalties) (Guernsey) Order, 2012;
The Data Protection (Processing of Personal Data) (STSC) Order, 2012.

1895 **The Deputy Bailiff:** Thank you very much.

Deputy Gollop: Sir, can Members make a comment on any of those?

1900 **The Deputy Bailiff:** Well, no, Deputy Gollop, on the basis that the way of making an appropriate comment would be for two Members to move a motion to annul any of those. Then there would be a debate at the appropriate time in accordance with the Rules. But they are simply being mentioned for the record, so that everyone knows that they have been laid and the processes can apply at this meeting or the next meeting.

1905

EDUCATION DEPARTMENT

1910 **Election of non-voting member**
Mr D P Mulkerrin, C.B.E., elected

Article VII.

The States are asked:

1915 *To elect as a non-voting member of the Education Department, Mr Denis Patrick Mulkerrin, who has been nominated in that behalf by that Department, to serve until May 2016 in accordance with Rule 4(2) of the Constitution and Operation of States Departments and Committees.*

1920 *(NB Rule 4(2) of the Constitution and Operation of States Departments and Committees provides:*

1925 *'Any Department may nominate up to two non-voting members, who shall not be sitting Members of the States, and whose appointments shall expire at the same time as the terms of office of the four sitting Members of the States. No other nomination may be made. Such Members shall have the same rights and duties as ordinary Members (other than the right to vote).')*

The Deputy Greffier: Article VII, the Education Department, election of Mr Denis Patrick

Mulkerrin as a non-voting member of the Department.

1930 **The Deputy Bailiff:** Deputy Sillars, the Minister of the Department – Members may have heard of Mr Mulkerrin, but do elaborate on him, if you wish.

Deputy Sillars: I would like to shortly, just for the sake of everyone understanding what it is all about.

1935 The Education Board would like to ask the Assembly to ratify the decision taken by my Board to have Mr Denis Mulkerrin CBE as a non-voting member of our Board.

Just for some information for those who have not heard of him, or some information here I think you may not know of, he was born in Guernsey in 1946, brought up in Greenfields Children's Home. He was educated at the Grammar School here and he left at 14 to take up an apprenticeship with what was then the Guernsey Telephone Department.

1940 He trained as a teacher of History and PE at Chester College, 1967-70, and started a teaching career in London in 1970; he obtained a BA in History from Hull University and MA in History, King's College, London University.

1945 His headship experience: headteacher of three different secondary schools from 1988 to 2010, which included a trouble shooting role at a school that had failed its Ofsted inspection. He was appointed the headship of Gordon's School, Woking, in 1995, which was initially a one-year contract, as there were doubts as to the survival of the school. In 1999, Gordon's was the second most improved school in the country in the Government tables. This resulted in receptions at No. 10 Downing Street and Buckingham Palace. Gordon received outstanding Ofsted inspection reports in 2001 and 2007. From 1998 to 2010, Gordon's was the highest performing state school out of the 53 secondary schools in Surrey.

1950 Just as general background, he was appointed CBE for services to education in January 2005; made presentations on leadership in education to Prince Charles, Secretary of State of Education and the HM Chief Inspector of Ofsted; was appointed to the Headteacher Advisory Group to Michael Gove in 2010; and his MA dissertation was on the History of Education in Guernsey 1893-1935.

Perhaps unknown most of all, he was team manager and coach of the British junior weight-lifting team in 1977 and 1995. I thought it was important to get that across!

1960 More recently, we do know – and this is the last sentence – he was the author, obviously, of the recent Primary and Secondary Reviews of Education in Guernsey.

So I ask the Assembly to ratify this appointment.
Thank you.

1965 **The Deputy Bailiff:** Thank you, Deputy Sillars.
Is that nomination of Mr Mulkerrin seconded by anyone?

Deputy Le Lièvre: I second, sir.

1970 **The Deputy Bailiff:** Thank you, Deputy Le Lièvre.
Members, you will see from the wording of Rule 4(2) of the Constitution and Operation of States Departments and Committees, that no other nominations are permitted, so we will move straight to the vote. It is a straightforward 'for' or 'against' the nomination of Mr Denis Patrick Mulkerrin as a non-voting member of the Education Department, proposed by Deputy Sillars and seconded by Deputy Le Lièvre.

1975 All those in favour; all those against.

Members voted Pour.

1980 **The Deputy Bailiff:** I declare that carried and, therefore, Mr Mulkerrin duly elected.

COMMERCE AND EMPLOYMENT DEPARTMENT

1985 **Election of non-voting member**
Advocate T M Carey elected

Article VIII.

1990 *The States are asked:*
To elect as a non-voting member of the Commerce and Employment Department, Advocate Thomas Michael Carey, who has been nominated in that behalf by that Department, to serve until May 2016 in accordance with Rule 4(2) of the Constitution and Operation of States Departments and Committees.

1995 *(NB Rule 4(2) of the Constitution and Operation of States Departments and Committees provides:*

2000 *'Any Department may nominate up to two non-voting members, who shall not be sitting Members of the States, and whose appointments shall expire at the same time as the terms of office of the four sitting Members of the States. No other nomination may be made. Such Members shall have the same rights and duties as ordinary Members (other than the right to vote).')*

2005 **The Deputy Greffier:** Article VIII, Commerce and Employment Department, election of Advocate Thomas Michael Carey as a non-voting member of the Department.

The Deputy Bailiff: Deputy Stewart, Minister of the Commerce and Employment Department to propose Advocate Carey for that role.

2010 **Deputy Stewart:** Deputy Bailiff, Advocate Tom Carey is currently employed by Carey Olsen and acts for asset managers, banks, fund promoters on the structuring and establishment of closed-ended and open-ended collective investment schemes.

He also advises on corporate transactions, including insolvency and restructuring, as well as banking and real estate finance. He specialises in permanent capital vehicles, the Channel Islands Stock Exchange (CISX), AIM and Main Market listings, as well as all aspects of private equity.

2015 He is a member of the Guernsey Bar, GIBA and is Chairman of the Guernsey Commercial Bar Association. His education was at the Elizabeth College in Guernsey and, after gaining a BA in Ancient History, he then followed this with his conversion to Law at the College of Law, Chester, between 1996 and 1998. Having completed a training contract at Norton Rose, he qualified as a solicitor of the Supreme Court of England and Wales, in October 2000 and then joined the corporate finance team at Norton Rose.

2020 He was in-house counsel at Morgan Stanley Investment Management Ltd, between 2002 and 2004. Following this, he took up a position with the corporate and finance group at Carey Olsen in August 2004, and was made a partner in 2008.

2025 Advocate Carey has shadowed recent Commerce and Employment Board meetings and brings, as you heard, both legal and financial expertise to the Board. I have no hesitation in recommending Tom as a valuable addition to the Board, as a sitting non-States member. In my view, his skills, experience and commercial acumen will be a real asset to Commerce and Employment and the range of mandated business that is regularly around our Board table.

2030 This recommendation is supported unanimously by fellow C & E Board members.

Thank you, sir.

The Deputy Bailiff: Thank you, Minister.
Is the nomination made by the Minister seconded?

2035 **Deputy Brouard:** Yes.

The Deputy Bailiff: Thank you, Deputy Brouard.

2040 For the same reasons, no other candidates can be proposed, so we will move to the vote to elect, as a non-voting member of the Commerce and Employment Department, Advocate Thomas Michael Carey, who has been proposed by the Minister Deputy Stewart and seconded by Deputy Brouard.

All those in favour; all those against.

2045 *Members voted Pour.*

The Deputy Bailiff: I declare that carried and Advocate Carey duly elected to the office of non-voting member on the Department.

2050

LEGISLATION SELECT COMMITTEE

Non-voting members

Advocate S F W Howitt and Ms D A Tindall elected

2055

Article IX.

The States are asked:

To elect

2060

(1) as a non-voting member of the Legislation Select Committee, Advocate Simon Francis William Howitt, who has been nominated in that behalf by that Committee, to serve until May 2016 in accordance with Rule 5(1)(c) of the Constitution and Operation of States Departments and Committees.

2065

(2) as a non-voting member of the Legislation Select Committee, Ms Dawn Angela Tindall, who has been nominated in that behalf by that Committee, to serve until May 2016 in accordance with Rule 5(1)(c) of the Constitution and Operation of States Departments and Committees.

2070

(NB Rule 5(1)(c) of the Constitution and Operation of States Departments and Committees provides:

'The Committee may nominate up to two non-voting members, who shall not be sitting Members of the States, and whose appointments shall expire at the same time as the terms of office of the four sitting Members of the States. No other nomination may be made. Such Members shall have the same rights and duties as ordinary Members (other than the right to vote).')

2075

The Deputy Greffier: Article IX, Legislation Select Committee, election of Advocate Simon Francis William Howitt and Ms Dawn Angela Tindall as non-voting members of the Committee.

2080

The Deputy Bailiff: Deputy Robert Jones, Chairman of the Committee.

Deputy Robert Jones: Thank you, Deputy Bailiff.

Advocate Simon Howitt might be well known to you. Advocate Howitt is a partner at Babbé's. He practises company and commercial law, trust law and commercial property law.

2085

He has advised leading banks on lending and security documentation and has been involved in many mergers and acquisitions in Guernsey in recent years.

He holds a number of directorships and was actually a member of the Legislation Select Committee up until the election in May 2012.

He was formerly President of the Guernsey Chamber of Commerce and Secretary of the Guernsey Bar Council. Articles of his have been published in several legal journals.

2090

Ms Tindall may be less known to you. Ms Tindall qualified as an England and Wales solicitor in 1990 and has worked in private practice for 17 years. Ms Tindall moved to Guernsey in 2007.

During the last five years, Ms Tindall has worked in the finance industry as a legal and compliance officer.

2095

During her career, Ms Tindall has been invited to a number of committees. Ms Tindal informs me that she has sat on the Carers' National Association Committee for Wales, helping both the charity and the members, through her work in the community care and welfare benefits. She advised the residents of the Townhill and Mayhill Urban Initiative in understanding their role and attended their meetings.

2100

Ms Tindall was a member of the Law Society's Capital Taxes Sub-Committee for three years before moving permanently to Guernsey. She is now an active member of the Committee of the Guernsey International Legal Association, of which I am the Vice-President, and I know her quite well through our meetings and social events.

2105

More recently, Ms Tindall was a member of the GFSC Joint Money-Laundering Group which assisted the GFSC with the introduction of the Handbook for Prescribed Businesses, and she has joined the Guernsey Registry IP Commercial Group and is currently on the working party to prepare the code of practice.

Most recently, Dawn was elected as a member of the Citizens' Advice Bureau Management Committee and she was a volunteer prior to that for nearly a year.

2110

Both Advocate Howitt and Ms Tindall are resident in Guernsey.

As Chair of the Legislation Select Committee, on behalf of my fellow members, I believe that

the experience and expertise of Advocate Howitt and Ms Tindall will be very valuable to the Committee and the discharge of its duties.

2115 **The Deputy Bailiff:** Thank you, Deputy Jones.
Are those nominations seconded?

Alderney Representative Kelly and another Member: Yes, sir.

2120 **The Deputy Bailiff:** Shall we take that for both of them from Alderney Representative Kelly.
Unless anyone suggests differently, I was going to propose that we take both of the propositions for this election together, rather than separately: these are two non-voting members of the Legislation Select Committee, as permitted by Rule 5(1)(c) of the Constitution and Operation of States Departments of Committees.

2125 The Committee's Chairman, Deputy Robert Jones, has proposed Advocate Simon William Francis Howitt and Ms Dawn Angela Tindall, and those nominations have been seconded by Alderney Representative Kelly.

Those in favour of electing these two candidates; those against.

2130 *Members voted Pour.*

The Deputy Bailiff: Once again, I declare that carried and that Advocate Simon William Francis Howitt and Ms Dawn Angela Tindall have been elected as non-voting members of the Legislation Select Committee.

2135

POLICY COUNCIL

2140 **Appointment of member to Planning Panel**
Mr D G Harry appointed

Article X.

The States are asked to decide:

2145 *Whether, after consideration of the Report dated 23rd July 2012, of the Policy Council, they are of the opinion:*

To elect Mr David Harry as an ordinary member of the Planning Panel, to hold office for the unexpired portion of Mr Burnard's term, to take effect from 1st October 2012 until 5th April 2017.

2150 **The Deputy Greffier:** Article X, Policy Council, election of Mr David Harry as an ordinary member of the Planning Panel.

The Deputy Bailiff: Chief Minister.

2155 **The Chief Minister (Deputy Harwood):** Mr Deputy Bailiff, this is a nomination of a candidate for the Planning Panel to complete the unexpired term of the appointment of Mr Burnard, who was appointed originally on 6th April 2011. It is a six-year term so, therefore, there will be approximately another five years to go.

2160 Mr Burnard has resigned for personal reasons, because he has taken on employment which might put him in a position where he considers he might be in conflict for some of the issues brought before the Planning Panel.

2165 Mr Harry is presently a reserve member, and therefore he has been involved in some of the training for the Panel, and there are a number of other reserve members. Mr Harry is a qualified English solicitor and specialises in land and property law and is a partner in Spicer & Partners in Guernsey, a member of the Society of Trust State practitioners and Guernsey International Legal Association. He is also vice-Chairman of the Guernsey Commonwealth Games Association and, up until fairly recently, he was also a member of the Douzaine of St Peter Port, until he moved to St Andrew's.

2170 Mr Harry is ideally qualified for appointment to this panel, he is recommended by the chairman of the panel and, in the circumstances, the Policy Council is happy to unanimously propose his appointment.

For the record, sir, his full name is David Gwyn Harry.

2175 **The Deputy Bailiff:** How are we spelling Gwyn?

The Chief Minister: G-W-Y-N-N. No, sorry, one 'n'!

2180 **The Deputy Bailiff:** Shall we make that amendment, then? Is that amendment formally seconded by Deputy O'Hara?

Deputy O'Hara: It is.

2185 **The Deputy Bailiff:** We do not need that in writing. We will insert Mr Harry's middle name, Members, in the proposition.

There is an opportunity to debate this proposal, because this is a report that is put forward, as opposed to an election. It is an appointment being made in accordance with section 86 of the Land Planning and Development (Guernsey) Law, 2005. Does anyone wish to speak on this proposition, or shall we move straight to the vote?

2190 Very well. The proposition is to elect Mr David Gwyn Harry as an ordinary member of the planning panel to hold office for the unexpired portion of Mr Burnard's term, namely to take effect from 1st October this year until 5th April 2017.

All those in favour; and against.

2195 *Members voted Pour.*

The Deputy Bailiff: I declare that carried and Mr Harry duly elected or appointed as an ordinary member of the planning panel.

2200

TREASURY AND RESOURCES DEPARTMENT

Double Taxation Arrangement with the Government of Japan, approved

2205 *Article XI.*

The States are asked to decide:

Whether, after consideration of the Report dated 19th June 2012, of the Treasury and Resources Department, they are of the opinion:

2210 *To ratify the agreement made with Japan, as appended to that Report, as required by section 172(1) of the Income Tax Law.*

The Deputy Greffier: Article X1. Treasury and Resources Department, Double Taxation arrangement with the Government of Japan.

2215 **The Deputy Bailiff:** I invite the Minister of the Treasury and Resources Department, Deputy St Pier, to open the debate.

Deputy St Pier: Thank you, sir.

2220 Mr Deputy Bailiff, this States Report is part of what is now a long production line of tax agreements stretching back to the first Tax Information Exchange Agreement (TIEA) concluded with the United States in 2002. The production line has accelerated with the advent of internationally agreed tax standards implemented by the Global Forum on Transparency in the Exchange of Information for Tax Purposes in 2008.

2225 Although it is my Department's first Report dealing with the tax agreements since taking office, of course, this particular agreement was on the production line well before my election.

2230 Members will recall that, in May, we approved the legislation which effectively activated Tax Information Exchange Agreements with India, Japan, Poland, the Seychelles and St Kitts & Nevis. There have been several occasions in recent years when Tax Information Exchange Agreements and related double-tax agreements have come before the States, such as with France, Germany, Greenland, Ireland, the Netherlands, New Zealand, the Nordic countries and the UK.

The procedure is as follows. In relation to the Tax Information Exchange Agreement, the States are asked to approve the agreement under section 75C of the Income Tax Law. The Director

of Income Tax can then use the powers available to him under the Income Tax Law to obtain the necessary information in response to a request received from the other territory. In the case of the TIEA with Japan, this was, as I mentioned, dealt with by the States in May this year. In the case of a double-tax agreement, agreed with the other territory, the States is asked to declare by resolution that the arrangements should have effect under the Income Tax Law and it is this matter which the States are being asked to deal with today, in relation to the arrangement with Japan.

Sir, the only distinguishing feature between the arrangements with Japan, compared to those to which I have referred, is that the TIEA and the double-tax agreement are combined into a single document, whereas most of those made previously have been in two separate agreements, with one prior exception being New Zealand. Whether or not the Tax Information Exchange Agreement and the double-taxation agreement are in a single document, or multiple agreements, matters very little as far as their practical effects are concerned.

Sir, in presenting this Report, I would like to take the opportunity to update Members on the state of play with international tax agreements generally. We currently have three full double-tax agreements, with the UK, Jersey and Malta – although the Maltese agreement is not yet in force – ten more limited double-tax agreements, such as this one – and I will say more on that in a moment – nine further double-tax agreements in negotiation, 37 signed TIEAs and 29 TIEAs in various stages of negotiation.

Sir, I referred to a production line: once an agreement has been reached at an administrative level, it may be embarrassing and politically difficult not to proceed to signature and, subsequently, for this Assembly to refuse to approve the agreement. This process has become routine and administrative. If a jurisdiction approaches us, seeking a TIEA, we are expected to provide one, irrespective of our business interests, or lack of them, in the other jurisdiction. The reasons for this are historic, quite clear and quite understandable. In 2008 we were expected to achieve 12 agreements by March 2009 in order to appear on the OECD's so-called White List. It was a numbers game, pure and simple. Previously, most of the countries with which Guernsey negotiated such agreements were those which were members of the OECD, the EU and the G20, which were, of course, the driving countries behind the creation of international standards for the exchange of information on tax matters.

There are also some other territories, where Guernsey had a domestic tax interest in such an agreement, in order to counter avoidance and evasion of Guernsey tax. As Members of this Assembly well know, international tax is a constantly and fast-changing sphere and, in the case of tax agreements, time has now moved on. We are, thanks to the work of previous States, in the vanguard of co-operative international tax jurisdictions and, more importantly, we are recognised as such. We can now, in my opinion, choose to be a little more discerning with which jurisdictions we deploy our limited time and resources. For example, the priority should be to deal, firstly, with those jurisdictions with whom we would like to seek double tax agreements. These will always be an uphill battle to obtain, but, as this limited agreement with Japan before us today shows, not an impossible one. My Board, and the Fiscal and Economic Policy Group of Policy Council, consider that it is appropriate for there to be an increased level of political direction on where the focus should be in determining the future priority for the negotiation of Tax Information Exchange Agreements and double-taxation agreements, *before* they are commenced.

So, sir, the process which my Department will now be following and which has also been agreed with the Fiscal and Economic Policy Group is as follows. Before Guernsey approaches any territory in order to commence negotiations, or if Guernsey is approached by another territory to start negotiations, the Director of Income Tax will firstly liaise with the Commerce and Employment Department in order to ascertain that Department's views on the benefit, or otherwise, of Guernsey entering into such negotiations. Once the views of Commerce and Employment are known, the Director of Income Tax will then refer the matter to my Board. It is envisaged that, in most cases, my Board will be able to decide whether these negotiations should be commenced. In the event that my Board should have concerns regarding any particular territory, the matter will be referred to the Fiscal and Economic Policy Group and the External Relations Group. Those bodies may then choose to consult more widely, such as with representatives of the finance industry on any particular case, as they see fit.

In the case of double-tax agreements in particular, I also should advise Members that the Director of Income Tax has already established a double-taxation agreement working group. This includes representatives from the Island's accountancy profession, Guernsey Finance and the Registrar of Intellectual Property. One of the purposes of this group is to identify those countries with which the finance sector would like to establish a double-taxation agreement. Guernsey Finance has also recently taken the initiative to survey industry to try and identify target jurisdictions. To that extent, therefore, when my Board and the Fiscal and Economic Policy Group

2295 and the External Relations Group, as appropriate, are asked to consider negotiations on double-tax agreements, an indication of whether or not those would be of interest to the finance sector should already be known. It is hoped that this procedure will help focus Guernsey's future involvement in the negotiation of international tax agreements more closely with those territories where there is an economic, political, or social benefit to Guernsey from those negotiations. This will provide greater and earlier political scrutiny in the process.

2300 Turning now, sir, to *this* agreement, as I said earlier, it is a *limited* double-taxation agreement, by which I mean it is more than just a TIEA, but not a full double-tax agreement covering all taxes. So, by way of example, it covers students in both jurisdictions. One imagines that there are very few Guernsey students in Japan, or indeed *vice versa*. However, that does not make this agreement irrelevant. On the contrary, for us, as a small jurisdiction to have even a limited double-tax agreement with the third largest economy in the world is a significant step. It provides useful precedent in future discussions with other major jurisdictions and we have, of course, been able to execute the agreement ourselves without relying on the UK, instead using the so-called 'entrustment' process by which the UK has effectively empowered and delegated its international authority in this sphere to us.

2310 Mr Deputy Bailiff, it is for these reasons that I and my Board commend the States Report to Members and ask their support for it. I will ask Members to ratify the agreement, made with the Government of Japan, as appended in the States Report.

Thank you, sir.

2315 **The Deputy Bailiff:** Thank you, Minister.

Can you pause briefly, Deputy Gollop, while Members take their seats?

Deputy Gollop, then.

2320 **Deputy Gollop:** I think this is a good Report and when it was asked at the Douzaine meeting why this was happening, somebody said, actually, there is interest in Japan, perhaps, and that people in the industry would like to do more business with Japan and this is part of our product mix.

2325 I was interested, though, on page 1868 to see that, in the case of Japan, they will include the Income Tax of the Empire of Japan and the local inhabitant taxes, but we just have Income Tax. We do indeed have parish taxes, if we can call them that, but we also, of course, have tax on TRP and I wondered why that was not included, because it is, in a sense, our equivalent of the council tax – or poll tax – which is a local inhabitant tax, albeit structured on a different basis.

2330 My other point was, bearing in mind this work has been done, should we not be focusing on the next stage, especially in relation to what the Treasury Minister has just said, on countries useful to us, such as the French Republic, such as the USA. I appreciate some of those are not quick wins, but I think – and the Republic of Ireland, too, has been mentioned to me as an important one to do.

2335 **The Deputy Bailiff:** Deputy Trott.

Deputy Trott: Sir, I would like to make three points and the first is that, following on from the Treasury Minister's excellent speech, Guernsey does have a long association with Japan. In fact, during the 1980s and 1990s I worked for a bank that was acquired by the Japanese Bank of Yokohama.

2340 I rise, though, mainly, to give a perfect example of why external relations are so fundamentally important to this community. It was back in 2009 that I attended the OECD global forum on tax transparency in Mexico City with the then – I think he has since retired – but certainly the then Deputy Director of Income Tax. It was at that conference that we secured a meeting with the Japanese delegation, a meeting that would probably otherwise not have been available to us, where discussions were commenced on a Tax Information Exchange Agreement, which I signed on behalf of the States some two years later. It is as a direct result of that engagement that we are having this limited DTA with Japan today and let us be under no illusions, as I think the Treasury Minister made his point clear, it is of much more advantage to us as a small jurisdiction to have this arrangement with Japan than the other way round.

2350 The only other point I would wish to make, sir, is with regard to selectability. Whilst it is desirable to have a priority list dictated by the financial services industry, who are looking to open up markets, it must be remembered that if you have a DTA in place, where a market does not hitherto exist, the opportunities to cultivate, to nurture, that market are very significantly improved.

2355 It is also worth mentioning, sir, I think, that if we had an international network of Double Taxation Agreements similar to those that the UK has, or indeed the other nations that Deputy Gollop mentioned, France and the USA – and it is conceivable, following discussions that we have had in Washington over the years that a DTA with the United States is achievable – if we had that network of double taxation agreements, there would be no requirement for Zero-10.

2360 The reason we introduced a basic rate of corporate income tax of 0% was because we did not have this network of treaties. *That* is why this initiative and the initiatives that will follow are so fundamentally important for the prosperity of this community.

Thank you, sir.

2365 **The Deputy Bailiff:** Deputy De Lisle.

Deputy De Lisle: Sir, I noted the new approach that the Minister referred to in terms of entering double tax agreements with other countries. Can I ask the Minister whether other major jurisdictions are discriminatory as to whom they commit themselves to such agreements? In his winding up he might address that.

Thank you, sir.

The Deputy Bailiff: Does anyone else wish to speak in this debate before I turn to the Minister? No?

2375 Minister to reply to that short debate, then.

Deputy St Pier: Thank you, sir, and thank you to Deputies Gollop, Trott and De Lisle.

2380 I think with regard to the issue of local inhabitant taxes, I believe that is imposed on the resident rather than property taxes *per se*, and I absolutely endorse the sentiments of both Deputies Gollop and Trott, sir, in relation to the need, wish and desire to expand our network of double tax agreements.

2385 With regard to Deputy De Lisle's point on other jurisdictions which are discriminatory, yes, there are other jurisdictions which are discriminatory against Guernsey and similar jurisdictions and that is part of the ongoing battle which is constantly being fought, as Deputy Trott referred to in terms of the need for external relations and the work being undertaken by many people to constantly hammer home the message that we are – as I referred to in my speech, thanks to the work of our predecessors – in the vanguard of co-operative tax jurisdictions. I think that message is hitting home, not least because of, perhaps, the surprise intervention of the Deputy Prime Minister in the UK this morning, sir.

2390 Thank you, sir.

The Deputy Bailiff: Hon. Members, as a single proposition on this Article, it is at page 1875 in your Billet, to ratify the Agreement made with Japan, as appended to the Report, as required by section 172(1) of the 1975 Income Tax Law.

2395 We move to the vote *au voix*.

Those in favour; those against.

Members voted Pour.

2400 **The Deputy Bailiff:** I declare that carried.

COMMERCE AND EMPLOYMENT DEPARTMENT

2405 **The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2012;
Commencement Order and Regulations to commence on 1 October 2012
Debate commenced**

2410 *Article XII.*

The States are asked to decide:

Whether, after consideration of the Report dated 19th June 2012, of the Commerce and Employment Department, they are of the opinion:

2415 *1. To approve the appended "The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2012" which increases the Minimum Wages Rates, as set out below,*

alters the age of qualification for the Adult Minimum Wage Rate from 19 years of age to 18 years of age and removes the 12 month qualification rule for apprentices:

Adult Minimum Wage Rate to be set at £6.30 per hour (For workers aged 18 and over).

2420 *Young Persons' Minimum Wage Rate to be set at £4.50 per hour (For workers aged 16 and 17).*

2. To approve that 1st October 2012 shall be the date for implementation of the Commencement Order and the Regulations to give effect to the Law.

2425 **The Deputy Greffier:** Article XII, Commerce and Employment Department, amendments to statutory Minimum Wage arrangements to come into force on 1st October, 2012.

The Deputy Bailiff: I invite the Minister of the Commerce and Employment Department, Deputy Stewart, to open the debate.

2430 **Deputy Stewart:** Deputy Bailiff, I am, of course, aware of the huge amount of public interest in the Minimum Wage; it has been the subject of much discussion in the media, at my recent Douzaine meeting and general feedback to me and my Department.

2435 This was, actually, one of the first items that my Board had to consider and it was the subject of much debate. If I can draw Members' attention to page 1877, paragraph 2.3, it says that in 2007 the States

'established the fundamental principle that it is unacceptable... for workers to be paid low wages to the point of exploitation.'

2440 In paragraph 2.4 on the same page, however, it says that this is a 'minimum wage' and not a 'living wage'. So it is very much a balancing act and that of careful judgement.

My Board is to carry out a more thorough review next year to understand the wider economic impact of the Minimum Wage and the impact that the current legislation and Minimum Wage level has already had on the economy since its introduction two years ago in 2010.

2445 There are some Deputies who hold the view that a low Minimum Wage means that taxpayers are subsidising some sectors of the economy by having to top up wages with benefits. Some are of the opinion that the Minimum Wage is used as a yardstick for payment of unskilled or lower skilled workers and therefore actually suppresses wage levels. Some of that may be evidenced from the table on page 1880 of your Billet.

2450 Much to my surprise, actually, this year's modest rise, from £6.15 for an adult to the proposed £6.30 in the Billet, has prompted a letter from the Guernsey Growers Association, saying that some of their members will go out of business; although, to date, I have seen no evidence that this is, indeed, the case.

2455 Commerce and Employment has engaged with agencies and, in particular, the Latvian community on the Island and has proactively gone out to the media to publicise the fact that we can advise and help those who believe they are paid below the low threshold, which is indeed the Minimum Wage, and these efforts will continue by my Department.

2460 The increases before you are above RPIX and we have not increased the offset rates for accommodation, typically used in the hospitality sector, and they remain at £61.50 per week for accommodation, and with food at £87.15 – in effect, increasing that Minimum Wage further.

As I mentioned earlier, we will be carrying out a thorough review next year. However, today, I hope to gauge some sort of feeling from Members on the Minimum Wage. I do, however, recommend that Members approve the proposals, as presented in the Billet.

2465 Thank you, sir.

The Deputy Bailiff: Thank you, Minister.

Deputy Laurie Queripel, Deputy Fallaize, Deputy Lester Queripel and we will get to some others.

2470 **Deputy Laurie Queripel:** Thank you, sir.

2475 Sir, as a Commerce and Employment Board member, I have supported the proposed new rates for a Minimum Wage on the understanding that it is a holding position, an interim measure subject to a wide-ranging review that will encompass other States Departments, T & R and SSD in particular, plus other interested parties, because it is fairly clear to me that the rate, as it stands, an historical rate, is, and has been, inadequate.

My gut feeling is it should be something more akin to £7.50, but the data used to arrive at the

figure at present is simply not comprehensive or complete enough, highlighted by a number of statements in the Report. I think if we look at page 1879, the penultimate paragraph says:

2480 ‘Currently the States of Guernsey do not collate job-related pay data in order to establish the market rates for specific jobs. Therefore, no data are available on average pay rates in Guernsey.’

And then, on page 1880, once again the penultimate paragraph:

2485 ‘The Island does not have a definitive data set on pay rates to draw on, but information received from a *limited* number of employers would suggest that pay increases range from 0% to 3.5% since 2011.’

So we are some way short of data to properly inform the rate.

2490 The Minister of Commerce and Employment has already alluded to page 1877, paragraph 2.4, and I will just drop back to that for a second, where it says:

‘...the States through Social Security, Housing and Income Tax... provide a wide range of benefits, grants... rebates and tax arrangements to help those on low incomes.’

2495 That tells me, regardless of the first line or so of that paragraph, the rate has been, and is, too low. All these States schemes exist to support people on low incomes, but that is a far from ideal situation and it begs the question: has this support, in effect, in some cases actually become a prop or subsidy for some businesses and is it being taken advantage of? I suspect it is.

2500 There is a very famous American mega supermarket chain that partly builds its business model around the fact that it will receive government support in the form of wage top-ups for its poorly paid employees – I will not give their name, sir, but it begins with ‘W’.

2505 The point is we do need to arrive at a more realistic figure but, in order to do that, the research needs to be done. A true balance needs to be struck where people are paid a decent rate and, as a result, their dependence on the States is lessened but, at the same time, employers are not costed out of business and that businesses remain viable. I look forward to the year report coming in the future, sir.

Thank you.

2510 **The Deputy Bailiff:** Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

I am speaking in response to Deputy Stewart’s call for Members to leave him with their impressions of this Report.

2515 I will start on a positive note and commend Commerce and Employment in two respects: first of all, for proposing to adjust the Adult Minimum Wage rate. The eligibility criteria previously has been aged 19 and they are proposing age 18. The previous Commerce and Employment Department never provided a credible reason why 18-year-olds could not be treated like adults in respect of the Minimum Wage and I think that is a good move.

2520 Also, it is to their credit that they are proposing any increase at all because...and other Members will correct me if I am wrong, but my understanding is that their predecessors had intended to freeze the Minimum Wage for a period of 12 months. I think that would have been completely unacceptable and I am grateful for the members of this Department taking a slightly more enlightened view.

2525 But I am disappointed with other aspects of the Report. I do not think we should have a statutory Minimum Wage which is, in effect, 11 pence greater than it is in the UK, given the considerable difference in the cost of living on the Island – and I do not believe that we have should a statutory Minimum Wage which, once the Isle of Man adjusts its rates, as it normally does annually, in a few weeks, that effectively puts us as the bargain basement of the Crown Dependencies. We are a lower rate than Jersey and their rate is due to increase before our next increase will take effect in 2013. Also, I do not think it is particularly encouraging that Commerce and Employment so readily dismiss a policy of this Assembly, which was reproduced at page 1877 of the Billet. It was a States Resolution of 2010, and it remains a policy of the States, that the Department should equalise the adult and youth Minimum Wage rates as soon as possible, and there has been no progress made in that respect again this year.

2535 I had correspondence with Commerce and Employment on a matter relating to the Minimum Wage and, right under their nose in July of this year, I wrote to the Minister and I asked him this question:

2540 'Is your Board content with the company which provides the vast majority of sea movements to and from the Island on both the northern and southern routes paying some of its staff at rates well below the legal minimum wage in Guernsey, the UK and France?'

I addressed my question, actually, to the Minister and Members of Commerce and Employment, but the reply I received started with the sentence:

2545

'I am pleased to be able to respond on the questions that you have raised. I should add that this is *my* response, as Commerce and Employment Minister, and has not been discussed by my Board.'

2550 So I apologise to the other Members of Commerce and Employment if they are hearing all this for the first time. But in the reply, the Minister advised me:

2555 'The Island has a Memorandum of Understanding with Condor, which is currently being reviewed, but this covers frequency and timings of ferry services and is therefore not relevant to the question of wages. I would, of course, expect that anyone we did business with would be acting legally and there is no evidence in this case that they are not.'

And, of course, that is true.

2560 However, Commerce and Employment *is* the Department responsible for this Memorandum of Understanding and it is not unreasonable, in my view, that given that they have responsibility for that and they have responsibility for the Minimum Wage, that when the Memorandum of Understanding is being reviewed they at least take the opportunity to discuss their concerns with Condor because I do not think it is acceptable for us to ignore the fact that a company with whom we have a Memorandum of Understanding is paying its workers at rates well below, not only our statutory Minimum Wage, but also those rates which apply in neighbouring jurisdictions. (**Two Members:** Hear, hear.)

2565 So can I ask Deputy Stewart, when he replies to the debate, to provide an undertaking that his Department will at least concern itself with employee relations and wage rates as part of its review of Condor's Memorandum of Understanding, although we all understand the legal position and that Commerce and Employment's powers may not be as great as one would wish.

2570 A further problem I have with this Report – and this is in no way a reflection on the present Commerce and Employment Board – is that every time this Report is brought to the States, every year, we have to have a fairly empty, almost meaningless, debate. Deputy Stewart makes an appeal for the States to approve what is being put forward by Commerce and Employment, knowing full well that we have a gun pointed at both sides of our heads because the States only has the choice of rejecting what Commerce and Employment proposes, or approving it. The way the legislation is set up, unusually, the States has no opportunity at all to adjust the rate put forward by the Commerce and Employment Department. I think that is inadequate.

2575

It is interesting, actually, that in Jersey, which is meant to have the executive system of government, their States does have the right to adjust the rate put forward by their Social Security Minister, but we do not have that right in Guernsey. Can I ask the Minister, when he replies to this debate on behalf of his Members, to provide an assurance that if a proposal is brought to this Assembly which recommends a change in the legislation so that this Assembly can, if it wishes, amend the rates put forward by the Department, his Department will not oppose such a proposal?

2580

Sir, I will conclude by saying – and I was interested to hear the Minister refer to the review that the Department is going to carry out – I think there is still a case that the responsibility for Minimum Wage policy is under the wrong Department in Guernsey. In Jersey, it is the responsibility of Social Security, and I think that Minimum Wage policy is probably a function of social policy more than it is a function of economic policy, and it seems to me – particularly given that we know there is this inter-relationship between the Minimum Wage and some workers on the Minimum Wage claiming benefits from Social Security – that it might be wise for us to transfer responsibility from Commerce and Employment to Social Security or, at the very least, give the Social Security Department more of a role in the formation of the Minimum Wage. So perhaps the Minister might refer to that when he sums up, as well.

2585

2590

Thank you, sir.

2595 **The Deputy Bailiff:** Deputy Lester Queripel next, then Deputy Bebb, then Deputy Sherbourne.

Deputy Lester Queripel: Thank you, sir.

2600 Sir, I have very real concerns that this is meant to be a holding motion whilst *another* review takes place, because I suspect the results of that review will be to increase the adult rate to something like £6.50 when the bare minimum should be no less than £7, in my view.

2605 I support the Department's recommendation that the qualifying age for the adult rate should be reduced from 19 to 18 years of age, but I do have real concerns about the increases proposed in the adult hourly rate because, in my opinion, sir, a 15-pence-an-hour increase is an insult to the hardworking people of Guernsey, and if I could have done something to amend that increase in my capacity as a Deputy, I would have done. I had a long conversation with Her Majesty's Comptroller, whom I thank very much for her advice and guidance and, at the end of our conversation, it was apparent that the best and hopefully most effective thing I could do was speak against these recommendations.

2610 I remind Members that, once again, on page 1877 of the Billet, point 2.3 tells us:

'...it is unacceptable in the current social and economic climate in Guernsey for employees and workers to be paid low wages to the point of exploitation.'

2615 I certainly say amen to that one, and I would like to return to that in a moment, but to deal with point 2.4:

2620 '... the Minimum Wage was not intended to reflect a 'living wage,' as there are a number of social policy initiatives administered by the States through Social Security, Housing, and Income Tax, which provide a wide range of benefits, grants, social housing, housing rent rebates, and tax arrangements to help those on low incomes.'

2625 That really concerns me, because what that really means is the taxpayer is paying for an employer to make a profit. For example, an employee working 40 hours a week, currently at £6.15 an hour, earns £246, but if their living expenses are, for example, £276, they simply apply for Supplementary Benefit top-up and the taxpayer gives them an extra £30 a week. That is not only completely unsustainable, but it is totally unacceptable and I would even go as far as to say that it is immoral. The employer should be paying the employee that extra £30, not the taxpayer.

2630 Has anybody ever asked the taxpayers if they mind contributing towards employers' profits? I am a taxpayer and I have certainly never been asked that question. Therefore, I would suggest to any employer who does exploit that loophole that they consider lowering their profit margin.

2635 I realise a turkey does not vote for Christmas. I also realise that there are some excellent employers in the Island who do pay employees a fair day's pay for a fair day's work, and those employers are not the problem. It is the employers who do exploit situations like this that concern me and, believe me, we do have employers in the Island who exploit these opportunities. It is actually the very nature of some people in business, and I think we should be doing whatever we can to eliminate such opportunities. Increasing someone's hourly rate from £6.15 to £6.30 is not going to eliminate those opportunities for employers to exploit.

2640 Once a week I spend anything up to an hour at Wheadon House, sitting in the Job Centre – and at this point, sir, I would just like to emphasise I am not looking for another job –

A Member: You might have to! *(Laughter)*

Deputy Lester Queripel: – but I might have to after this speech! *(Laughter)*

2645 Sir, there are many reasons why I visit the Job Centre. One is so I can sit and talk to people who are unemployed and looking for work. I do that because these people are my people. They are not aliens, they are not rejects of society; they are human beings, fellow Islanders who, through no fault of their own, have fallen on hard times.

2650 As I am talking to them, sir, I can feel their frustration, I can feel their pain, I can feel their disillusion and I can feel their total demoralisation. These are the very people that we, as a Government, are failing. I am not talking about the shirkers, sir, I am not talking about the people who abuse the system; I am talking about responsible, hardworking Guernsey people who actually want to work. And what do we offer them? We offer them jobs at £16.15 an hour. *(Interjections)*

2655 **Deputy Trott:** I can start Monday! *(Laughter)*

Deputy Lester Queripel: What did I say there?

Several Members: Sixteen!

2660 **The Deputy Bailiff:** It was a slip of the tongue, Deputy Queripel. Do continue.

Deputy Lester Queripel: I apologise for my passion, sir, running away with me.

2665 We ask them to give 50 hours of their week for the paltry sum of £246.

The Deputy Bailiff: I think that will be 40 again.

A Member: Not fifty.

2670 **The Deputy Bailiff:** Can I suggest you invest in a calculator? (*Laughter*)

Deputy Lester Queripel: Sir – (*Interjection and laughter*)

2675 **The Deputy Bailiff:** Members of the States, let Deputy Queripel continue, please.

Deputy Lester Queripel: Thank you, sir.

If I can expand on that point, sir, I just made. I know Deputy Bebb does not want me to continue this speech, but I am going to.

2680 Why do I say 50 hours a week, sir? Let's look at the practical side, for a moment. It takes most of us an hour to get ready and get to work, and it takes most of us an hour to get back home from work. Therefore, in real terms, we are asking fellow Islanders to dedicate 50 hours a week of their time to their job. So the fact of the matter is that £6.15 per hour then becomes £4.92 an hour. A 15-pence-an-hour increase in salary equates to a £6 increase a week, and that is not even £1 a day. Even now, with that sum, people have to pay tax and insurance. I repeat: recommending a rise of
2685 15 pence an hour, in my view, is an insult to the hardworking people of Guernsey.

Now I would like to spend a moment or two, sir, if I may, focusing on the type of jobs available in the Job Centre. There was a vacancy advertised for a horticultural worker: 70 hours a week spread over six days with a 7.00 a.m. start, at £6.15 per hour. That is basically five 12-hour days and one 10-hour day. That, to me, sir, is exploitation. I would go as far as to say that could come under the banner of 'slave labour'. That job would dictate your life for six days a week, and working 70 hours a week would reward you with the marvellous sum of £430. By the time you take tax and insurance out of that, you could possibly be left with around £320, all for the sake of then having to sleep all day Sunday and prepare yourself for work on the Monday.

2690 We talk about the need to encourage Guernsey people back into work but, in my view, we are not going to encourage Guernsey people back into work under those circumstances. So what happens next? Well, the employer then applies to Housing for a licence, on the basis that they cannot find a Guernsey person who wants to work under those conditions. But at this point, sir, I would like to ask Members of the Assembly, through the Chair, how many of them would be prepared to work for seventy hours over a six day week for £320.00. Well, I certainly would not, sir, so why do we expect fellow Islanders to do that?
2700

So then the employer receives a licence from Housing to employ an overseas worker whilst another one of our own people stays on the dole, totally demoralised. If we are really going to encourage unemployed Islanders back into work then we really need to set a realistic figure as a Minimum Wage. We cannot simply rely on the conscience of an employer to do that and it is actually our duty as a Government to ensure the wellbeing of our own people. If we support these proposals then, in my view, we will actually be *hindering* the wellbeing of our own people.
2705

So, sir, to conclude, much to the Deputy Bebb's relief, I would like to repeat that, currently, taxpayers are contributing to employer's profits. Every time an employee applies for supplementary benefit, the taxpayer pays. Can we allow such an unsustainable and immoral practice to continue? I would ask that the Commerce and Employment Minister makes it a priority to review the decision made by the States in 2007 that a Minimum Wage is not intended to be a living wage, on the grounds that it is not only totally unsustainable but it is also immoral to expect taxpayers to contribute to the profits of those employers who are currently exploiting that decision.
2710

Obviously, I will not be supporting these recommendations, sir.
2715 Thank you.

Deputy Bailiff: Members of the States, we will adjourn now until 2.30 p.m.

2720 **The Deputy Greffier:** All rise.

*The Assembly adjourned at 12.33 p.m.
and resumed its sitting at 2.30 p.m.*

2725

COMMERCE AND EMPLOYMENT DEPARTMENT

2730 **The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2012; Commencement Order and Regulations to commence on 1 October 2012, approved**

The Deputy Greffier: Article XII, the continuation of the debate.

2735 **The Deputy Bailiff:** Deputy Bebb I have noted next.
Do you still wish to speak?

Deputy Bebb: If I may... (*Laughter*)

2740 Earlier today we heard from the Minister of Treasury and Resources about the harmonisation and co-operation that happens across Departments, that any future double taxation treaty will be put in place and that priority will be put in place, in consultation with Commerce and Employment. I commend the Treasury and Resources Minister for such actions and it is something I would hope would continue to happen but, with regard to the Minimum Wage, that simply does not happen across the Departments.

2745 If Members will bear with me while I go through my own calculations for a moment, (*Laughter*) £6.30 per hour – if we were to consider that on the lowest amount of hours that we would expect – 35 hours working per week and we multiply that by 52, then, of course, we come to a figure of £11,466 as a salary per annum. We consider it, therefore, as Deputy Stewart pointed out to be, unacceptable to be *exploiting* people by paying them less than £11,466 per hour.

2750 Indeed, the penalty we put into law for this is a £10,000 fine or three months' imprisonment, *but* we consider it perfectly acceptable for the State to be taxing people at this level. £9,200 is the personal allowance with regard to tax: 6% in States Insurance will be paid on this. Therefore, if you look at the total amounts that would be deducted, given these levies, you are looking at a total deducted by the State of £1,141. Not an insignificant number when we consider that someone earning the Minimum Wage would be paid probably no more than £11,466.

2755 Indeed, it ends up that this £6.30 is *not* a minimum wage, it is an illusion of a minimum wage! If we agree to £6.30, I think that it is much more pertinent for us to remember that these people will be taking home £5.67 and it is not a case of amending the Minimum Wage that would amend this problem. It is a case that we need to consider that tax allowances and States Insurance contributions actually have an impact on people's take-home pay and for us to consider this as a minimum wage without having due regard to these exploitations by the state of people, as is recognised within the law, then you really do them a disservice.

2760 Thank you.

2765 **Deputy Bailiff:** Deputy Sherbourne now to make his maiden speech.

Deputy Sherbourne: Thank you, sir.

Yes, it is probably one I would not have chosen to be making. I say that for the Requête but I would, after Lester's –

2770 **The Deputy Bailiff:** Deputy Queripel, please.

Deputy Sherbourne: – sorry, Deputy Queripel's offering this morning and some Welsh oratory a few moments ago. I will try and keep mine very brief.

2775 I actually want to support the proposals but I do find it difficult for many of the reasons that have already been expressed. Basically, these proposals do *not* address the States Resolution of 2010, which directed Commerce and Employment to align the young person's Minimum Wage with the adult wage *as soon as possible*. In my mind, this *is* a missed opportunity. Instead of making small adjustments to partially address this issue and start the process of alignment, the Board proposes an actual widening of the differential: albeit by a very small margin, it is an increase in that differential.

2780 I acknowledge the argument that the decisions that impacts upon youth unemployment are very important considerations and that excessive increases could be counter-productive. However, I fail to see how a modest increase which goes some way to address the States Resolution will substantially impact upon the levels of unemployment. In any case, many young people have to provide for themselves and £180 per week gross pay for a 40 hour week is insufficient to make

ends meet and we have heard the arguments with regard to supplementary benefit.

2790 The alignment of Minimum Wage levels is still a valid argument and I hope to see steps taken to address this in the future. I applaud the Board's proposal 6.1, to reduce the qualifying age for those apprentices, but I am very concerned about the consultation process which was printed in the Billet. It was an admirable attempt to ascertain public opinion on the issue but the number of consultation papers sent out – 250 – is far too small a sample to obtain any meaningful outcome, especially when you only receive 76 replies. If you are basing Policy on that sort of research, it is extremely 'iffy' to say the least. A small sample, as I say, is meaningless and I hope that consideration will be given to increase the sample groups in future during any consultation process by any States Department.

2795 I would like to finish by welcoming the commitment by the Board to have an in-depth review of the situation in the next twelve months.

Thank you. (*Applause*)

2800 **The Deputy Bailiff:** Deputy Langlois next.

Deputy Langlois: Thank you, sir.

2805 Sir, I will be supporting the Commerce and Employment report on this occasion, not because I think it is perfect and not because I think it provides us with any long term solutions.

2810 Having been in on this debate from the start in 2009, I do believe that it has spawned some unintended consequences because I firmly believe that it has changed the behaviour of some employers, who have firmly embraced and welcomed the Minimum Wage as a way of settling their own wage negotiations. If you do not believe me, go and join Deputy Queripel down at the Job Centre – an open invitation for you. If you go in there and look at the huge variety of jobs on the board, the vast majority of them are advertised at Minimum Wage. The skills levels, the working conditions, the unsocial hours, dirty work and so on and so forth which are advertised on that board vary tremendously and yet, apparently, they are all worth the Minimum Wage. Now that is not for me a labour market.

2815 The other problem with this debate is that there are endless statistics banded about. We can go into all sorts of details and I have a suspicion that we ain't finished with the detail yet this afternoon and there are some people far better than me at coming back with examples and figures and so on – I've caught one in their eyes already and I suspect there is another one – but this debate, together with the benefits debate next month presents the States with the ultimate challenge in judgement calls, political judgement calls, and subjective decision making.

2820 You can come up with all the figures you like, there is no evidence base for this. In the end, it is what do we think we, as a Government, should recommend – in this case, for the Minimum Wage – what should we recommend as some sort of minimum living standard: I am not going to put a label to it because that is dangerous, as we saw last March, but some sort of minimum level for people who claim supplementary benefit.

2825 We can prove what *does* happen at the moment, that's where the value of the statistics and the examples lie. We can say, *in this case*, this family would earn that much and so on and so forth. What we cannot do is use those figures directly to decide what should happen.

2830 Now I wish to, at this point, repeat, in case there is any confusion, that the Social Security Department is thoroughly committed to re-visiting the Supplementary Benefit Review and it overlaps with two other speeches that I have to make in the next five weeks – that is, that we are not going to do it overnight. We are not going to do it on this occasion, we are taking this at the right place and making sure that we come back with proper solutions, but those two debates are closely linked, as has been mentioned this morning.

2835 The two Departments must work together. At the moment, I am not quite sure which Department should present it, we have heard some views this morning; let me return to that one.

2840 I think there are one other set of statistics that are *very dodgy* in this area. That is that we seem compelled to compare to other jurisdictions and, very often, we make those comparisons without making comparisons in the area that was mentioned in the last speech, to do with taxation levels and with what other prices people have to cope with in different jurisdictions and so on and so forth. Where the comparison is of *real value*, in my view, is that what we have here is a rather dangerous cocktail because if we take the Minimum Wage as one guideline, one benchmark, which we are working to, then we have got the supplementary benefit levels and limits and so on, if we take those together and we make the wrong decision – and I am prepared to suggest that, over a period of time, the UK has made the wrong decision – we move the whole economy towards a benefits culture which is going to bite us back in one way or another.

2845 The gap between the Minimum Wage and supplementary benefits represents a real risk of that.

2850 There are people in Guernsey now who are on the Minimum Wage, they are getting a top up in supplementary benefit and the net result of that is that, in order to move out of that situation and reduce *our* supplementary benefit bill and the bill for the rest of the taxpayers, they have got to get a *massive* rise in their earning power, rather than just go and look for the next slightly better job and climb the ladder and progress and the work ethic works in that way.

2855 At the moment I am not suggesting for a moment there are loads of people exploiting this, I am just talking about the psychology of being in a position where you think ‘shall I stay where I am or shall I go and look for a job that effectively pays twice what I am getting at the moment?’ because I don’t think any of us with career experience would see that sort of step as having been viable on many occasions. So there is an interruption with other areas. Most dangerous of all, this is a social welfare measure that interferes with free markets. It interferes with the labour market, obviously, and the symptoms of that I have already described and therefore, obviously, the second stage interferes with private company markets – because the business equation that people are putting
2860 together, if they believe they are in the type of business in which a Minimum Wage is appropriate, their equation and their pricing and their competitive situation is partly driven by decisions made in this Assembly. That, in my view, cannot be right.

2865 So where do we end up? Well, we end up potentially with a Dutch auction and this is now the third debate that I remember where somebody stands up and says ‘Well, I think 15 pence is too much...’, ‘Well, no, no I think, perhaps, it should be eight’, ‘No, go on, let’s call it 12’ – and we get the sort of bargaining-type argument around pennies per hour because you are working at such a margin that it is bound to happen. That sort of Dutch auction I do not think is beneficial, it is not the right environment for a pay negotiation, it is the most odd pay negotiation that I have ever been
2870 involved in because it is the sort of pay negotiation that we are conducting here between an unknown group of employees and an unknown group of employers and yet we are effectively coming up with some answer to what would normally be settled in negotiation between the two parties. The whole thing needs to be more joined up, perhaps very much more joined up than it has been in the past.

2875 Should it become the responsibility of the Social Security Department? I don’t know. I am not laying claim to that, I am not pushing it away. I do think, whichever Department takes responsibility for it at the next phase, there are two things, (1) that it should be aiming for a slightly longer term set of proposals and that (2) the two Departments should be involved very much in the process.

2880 So, with that in mind, on this occasion, please support the Commerce and Employment proposals.

The Deputy Bailiff: Deputy Hadley next.

2885 **Deputy Hadley:** Mr Deputy Bailiff, I am delighted that there is such enthusiasm in the Assembly for increasing the Minimum Wage substantially: I think that my own view would be around one of our previous speakers, around £7.50 an hour.

2890 First of all, I do reject the criticism that we are ignoring a States Resolution to move the young person’s wage to the adult wage – at the time, in fact, I think I seconded the original proposal which brought that into the realm of States policy – because what we have done as a Department is make sure that the age of eighteen years old now get the adult wage instead of having to wait until they are nineteen. I think that was one way of achieving what the States wanted in making sure that juveniles were paid rather more. One of the things that I think myself and some of my
2895 colleagues felt when we were discussing this was a worry that has already been said, the previous Board had recommended no increase whatsoever so one had to be mindful of the fact that if we were too generous the States might reject it but, more importantly, not a lot of work had been done to find out what the effects would be of increasing the wage and one of the things that we *have* done is to ask the Treasury and Resources Department to provide us with information as to what percentage of a businesses turnover is in wages in certain sectors and we are still waiting, Minister – through you, sir – for that information, which is part of the information we need when we look at what we do with the minimum wage going forward.
2900

2905 Certainly one of the worries is that a number of sectors that pay the minimum wage, such as growers and the agricultural sector, might be very adversely affected if the rates do go up to the rates many of us desire, at around £7.50 an hour. If the wage is a very significant part of the turnover of a tomato grower, for example, we might push some of those tomato growers out of business and I can imagine that if we made a generous increase and a few businesses like that went out of business, we might not be very popular. Also, it has an impact on the Housing Department because we don’t want to issue a housing licence for people to come and take these low paid jobs

on the Island because local people will not take them. So we very much have that in mind, the impact on the Housing Law.

2910 But, Mr Deputy Bailiff, when we have done the review, I hope it will enable us to make a considerable increase in the rate to the Assembly.

Thank you, sir.

2915 **The Deputy Bailiff:** Thank you.
Deputy Luxon next.

Deputy Luxon: Thank you, Deputy Bailiff.

I welcome the report and thank Commerce and Employment for bringing it and I will be supporting its recommendations.

2920 I do agree with many of the views that have been shared, whichever numbers we have used, that it is not a living wage. It is probably too low. One thing that I draw Member's attention to, though, is on I think it is 2.6, that, in the two years that the Minimum Wage has been in existence, there have been no complaints either from employers or employees. Now I don't know whether we should take from that that the Minimum Wage level at £6.15 is actually the right number
2925 because we have not had any complaints from any employees or, indeed, whether the market rate is higher, or that the market rate will actually fix itself... I do not know the conclusion to be drawn from it, but we have not had any complaints.

The other thing of course, we do not know how many people receive the Minimum Wage. There is no data, there are no stats so when Deputy Queripel talks about a 'great mass' of
2930 Guernsey people who are being 'exploited', I think we have to be careful in terms of are they being exploited, but also what is the quantum of those people who may be being exploited.

Unemployment levels still remain incredibly low in Guernsey, something like 1.2% of the working population, and that is in spite of the contraction we have had in our economy.

2935 Sir, this is a difficult issue and Government should try not to interfere in the market. Certainly, when it comes to pay rates, there is the concern that we make vulnerable..., businesses then become non viable, in which case unemployment will increase and people will lose their jobs altogether. It is a very difficult dilemma but I will support the recommendations.

Final thing, sir, the percentages: it would be useful to have percentages in a report like this. It gives the actual cash increases but, in actual fact, the adult rate is a 2.4% increase and the young person's rate is a 3.25% increase so, in answer to Deputy Falaize's earlier point, there has been the most minimal amount of equalising but clearly not enough and I accept that the young person's rate does need to be increased more significantly. I will support the proposals.

Thank you, sir.

2945 **The Deputy Bailiff:** Deputy Gollop, then Deputy Ogier.

Deputy Gollop: Thank you, sir.

Well, we have certainly heard a lot of passionate speeches about exploitation. There was Deputy Lester Queripel talking about workers being exploited – in a way the taxpayer being
2950 exploited by less scrupulous employers; we have heard from Deputy Sherbourne, young people being exploited; and from Deputy Bebb about – in a way – us, as a state, exploiting the lower paid by encouraging, well, obliging them to pay Social Security and Income Tax. And, of course, we should not forget indirect taxation as well, but I would like to point out that Guernsey is more generous in that respect than the United Kingdom, where people pay tax at a much lower level and I, too, would like to see integration of tax and benefits.

One has to be aware, as Deputy Langlois said, that you are interfering with the marketplace with this kind of legislation. Deputy Hadley was putting it both ways: he said wouldn't it be great if the rate was £7.50, but we would see certain business going under. Deputy Stewart reminded us today that there may well be at least one grower on the Island who would cease to trade and, on
2960 the margins, the Minimum Wage has precisely that impact. It is designed as a social measure to give everybody a basic standard but the price you pay for it is a decline in employment, your 'left/right' debate, really.

I would add an additional disability point here, that there are, of course, some people with special needs who are employed, in a therapeutic context, in a variety of employers both
2965 voluntary, private and public and, in some cases, I gather – I need more evidence here – that they are perhaps not being paid much more than £1 an hour and I personally believe they should receive the Minimum Wage or something very close to it. I think this is a different subject but, nevertheless, one that is a point that is worth making.

2970 When one looks at the figures on page 1880, it is clear Deputy Langlois and Deputy Hadley
 have a point that there has been a change in the labour market, a material change. In some cases,
 the pay offered is less than before and one would perhaps take that inference from waiting upon,
 certain kinds of bar people, cleaners and so on and, in other cases, it is more. My argument as to
 why that is, is that the Minimum Wage Commerce and Employment Policy is only one part of the
 2975 reason. There are at least two other reasons. The first reason is the marketplace is now an
 employer's market rather than an employee's market; the second reason is that immigration, and
 people who are doing part-time jobs, has an impact, and I am still occasionally puzzled as to why
 we have people on nine-month licences for jobs that I think, in some instances – by no means all –
 local people could do. But, we have to build up skills.

2980 Social Security, the Board I am now on, is working really hard in that area and looking at a
 holistic picture of where we are going – and one also has to appreciate, in this context, that if we
 went back to some of the ideas that Deputy Dorey was putting across about nine months ago on
 the guaranteed personal income – I think it is inevitable that we do the opposite of what Deputy
 Lester Queripel was suggesting because we *will* be subsidising employment.

2985 We want a work culture, we want to incentivise work but the only way, it seems to me, you can
 incentivise work and, at the same time, keep the Island's economy competitive, is that you actually
 pay the difference between the amount they are receiving at work and the amount that they
 actually have in real value. Whether that is for a free universal or targeted services or cash in hand,
 I don't know, but the reality of the situation is this Assembly is likely to subsidise employment
 2990 and I think it is better, generally speaking, that people are employed rather than unemployed or
 under-employed and so we have to have a much broader inter-Departmental strategy, rather than
 just focusing on the Minimum Wage. The Minimum Wage is no more than a basic safety net and
 should not be seen as an instrument of employment policy.

2995 **The Deputy Bailiff:** Deputy Ogier, then.

Deputy Ogier: Thank you, sir.

I will be brief. I was looking at paragraph 2.4 and I really am not very happy about this
 paragraph and the ramifications of it. If we look at it, it says that

3000 '...the Minimum Wage was not intended to reflect a "living wage" as there are a number of social policy initiatives
 administered by the States through Social Security, Housing, and Income Tax, which provide a wide range of benefits,
 grants, social housing, housing rent rebates, and tax arrangements to help those on low incomes.'

3005 but doesn't that really mean that the message we are giving out to employers is, you can pay as
 low as you like and we will pick up the rest through Social Security, Housing, rent rebates, tax and
 so on? I think that is a pretty poor message to send out to the community, because that represents a
 subsidy by the taxpayers to those paying those low wages.

3010 Do we still want those companies offering low wages to continue to offer those jobs and...?
 Maybe we do. Maybe, the answer is 'Yes, we do need those jobs out in the marketplace for some
 of the people on Guernsey.' Maybe, the answer is 'No' – and I hope that will be one of the things
 that is picked up through the Commerce and Employment review. Maybe there could be a resident
 and non-resident's rate to allow those coming to the Island who, for them, is well paid work, to
 continue doing that.

3015 When we look at, say, a husband and wife on the Minimum Wage, they could be working a 38
 hour week, which would mean, for them on the Minimum Wage, they would be receiving £478
 and they may have children. They may possibly qualify for the supplementary rate which would
 be, at that time, £550. So if you are on the Minimum Wage they would be earning £70 less than if
 they were on supplementary benefit and they would qualify for a supplementary benefit top-up –
 3020 that family of £70 per week – of £3,500 a year. So the taxpayer would be subsidising that family to
 the tune of £3,500 per year, which is a pretty heavy subsidy just for one family, to give to an
 employee of an employer who pays low wages.

3025 The fact would be that supplementary benefit is a higher rate than working and how do you
 encourage people on supplementary benefit to go out into the community and work, when they
 would receive less than they did on supplementary benefit, anyway? That poses a real problem. If
 you are on supplementary benefit, you want to be able to go out in the community and work and
 enhance and improve your situation, not worsen it. A family could go out into the workplace, find
 employment, earn £70 less than when they were on supplementary benefit and qualify for a
 supplementary benefit top-up to take them up to where they were on supplementary benefit. That
 3030 really is an appalling disconnect in policy round the States and what I would like the review to
 take into consideration, what has been mentioned of tax allowances, supplementary benefit, the

issues of getting people off supplementary benefit and into work and we do that by having a coherent set of policies across the States. If that is what this review comes up with then that is what I would be looking for. If it does not result in a coherent set of policies that address all of the

3035

issues together to fix this, then I will be very disappointed.
Thank you.

The Deputy Bailiff: Deputy Le Lièvre.

3040

Deputy Le Lièvre: Mr Deputy Bailiff, Members of the Assembly, I feel I should apologise. I was going to go into some detail with regard to the calculation of supplementary benefit but, following Deputy Ogier's speech, that would probably be slightly unnecessary. But when I was a member of Social Security I remember going down to the Job Centre one day and there was an advert for a farmhand and I know what a farmhand does because, in my past, I was manager of the dairy so I had some idea of how hard, physical, nasty, tiring and dirty work that is and that was

3045

charged, or was going to be paid, at the minimum rate.
Now Deputy Lester Queripel's speech: I was hoping a Member of Social Security was going to jump up and correct his rather rudimentary calculation of the benefit, but nobody did, so I will help them out.

3050

It is true that what Deputy Langlois has said and what Deputy Ogier has said are both correct – there would be a massive top-up – but I do not think it came out quite clearly just *how* massive that top-up would be. If you had a single man working 40 hours a week, living in a unit of accommodation for which Social Security will be paying £184 per week, should the proposals of October be successful, then he would get a top-up from the taxpayer of £129.94. If he was a married man and his wife was ill and could not work, then he would get a top-up of £276.08 from the taxman. I know it is 17 years since I calculated Supplementary Benefit, but I think I can still do it. Those are the sizes of the top-ups that would be paid to a single man on the Minimum Wage, working in a dirty unsocial job which is very physical and very poorly paid. That is obvious – we have heard it said several times in the Assembly this afternoon.

3055

3060

What I want to do now is take a small trip into the future, only as far as October, and in relation to T & R's letter of comment, which is appended to Social Security's uprating report, or at least the income side. No, sorry, the expenditure side of the uprating report – we will discuss the other side later on today. That letter of comment suggests that if Social Security's proposals are successful, the increase in £2 million in their budget will be clawed back from other States committees, and Social Security make the reasonably – not the reasonably, the very valid point – that this is formula led... and the increases that we are talking today about the Minimum Wage will add to that formula-led expenditure.

3065

3070

It so happens that I have a graph here, produced for another purpose, but it includes single parents, incapacitated, old-age pensioners, jobseekers and the disabled. Jobseekers – which the low-paid are lumped in with for the purposes of Social Security's budget – have increased, since 2008, from expenditure of just over £1 million to just under £3 million in 2012, and the short-term – rather, the long-term sick and the short-term sick – have increased from £2.5 million to over £4 million, and anybody who has ever worked in Social Security knows that sickness is directly connected with unemployment and the two rise together. But, of course, the low-paid are in that bracket as well.

3075

3080

My problem – and it is a *real problem* – is not the jobseekers, it is not the incapacitated and it is not single parents. My problem relates to pensioners, because pensioners are lumped together in that overall budget, and T & R's comment, which says we are going to take any money back – and in a rather threatening way, I feel – from other States Departments if you take this rather irresponsible approach, as Social Security seems to have been labelled as, that comment applies equally to pensioners, and *their* expenditure in Supplementary Benefit has gone down in real terms. The reason it has gone down is associated with the rates of benefit, and the rates of benefit are indirectly associated with the low-paid etc via this link with jobseekers and the Budget and the overall expenditure on Supplementary Benefit. It is extremely complicated, it is not easy to separate out, but if you actually pay very low rates of pay you will increase Social Security's expenditure from Supplementary Benefit – or let's call it Income Support – you will increase that expenditure and you will get a letter of comment from T & R which says this is a bad thing, and pensioners will suffer indirectly through that link. That is my warning to you today. I will probably vote for these proposals, because not to do so means it stays exactly where it is, so I will vote for them, but it is with a heavy heart because it is going to impact on all the places where you would not normally associate that it would impact.

3085

3090

Before I go too far and divert into a speech that I am going to make in about a month's time, I

would just like you to consider what you are approving this afternoon and the impact it has down the road for people you would never ever normally associate such an increase with.

Thank you, sir.

3095

The Deputy Bailiff: Deputy Green.

Deputy Green: Mr Deputy Bailiff, Members of the States, thank you.

3100

I will keep this brief, sir, because many of the pertinent points I believe have been raised but, firstly, I do welcome the decision to lower the age at which an employee qualifies for the statutory Minimum Wage from 19 down to 18 years of age. I also applaud very much the decision to provide a modest uplift to both rates, rather than freezing the rates. We all appreciate the difficult economic circumstances that we are living in, but any boost to the living standards of the low-paid is to be welcomed.

3105

However, I do want to express two particular concerns. Firstly, what we see here really is very slow progress indeed towards achieving the resolution of 2010. That point has already been made but I would like to add my voice to that concern. The resolution of 2010 directs the Commerce and Employment Department, as soon as possible, to equalise the young persons' Minimum Wage rate with the adult rate, and although some progress is evident in this Report, in my judgement it is not going fast enough. If that is enshrined in a resolution of the States, when can we realistically expect that equality to be fully implemented? I would suggest the current age discrimination which is at the heart of this system needs to be dealt with much quicker if that States resolution is actually to mean anything other than just warm words. At the moment, frankly, the young employees of this Island deserve much better.

3110

3115

The other concern that I have, sir, is relating to the collation of data, and again this is set out well in the Report so I will not labour the point, but the *Billet* does indicate that the States of Guernsey currently does not collate job-related pay data in order to establish market rates for specific jobs. What that means is that the figures set out in table 2 of page 1880 does not in any way constitute a fully comprehensive analysis of wage rates across the Island and, in my judgement, the data that we should be using in this vital and important area should not be that limited. It should be much more comprehensive and I would ask the Minister for Commerce and Employment to give some indication today as to how that can be improved and when.

3120

3125

Finally, just to touch on an issue with regard to how we may move forward with the statutory Minimum Wage, I would ask the Minister for Commerce and Employment and his Board whether they would be prepared to reconsider the idea of aligning the statutory Minimum Wage with a set percentage of median earnings in the future because, in my submission, that would go a long way to making sure that work pays in the future.

3130

The Deputy Bailiff: Deputy Dorey.

Deputy Dorey: Thank you, Mr Deputy Bailiff.

3135

I rise to my feet to give some feedback to Deputy Stewart, which he asked for at the beginning of the debate. Firstly, I agree with Deputy Fallaize and others in welcoming the reduction in the age for the youth rate, but I agree with Deputy Stewart that we do need a significant review.

3140

The Report states that the Minimum Wage is midway between Jersey and the UK rate, but what is key is the difference in cost of living between the UK and Guernsey and that is best illustrated by the Minimum Income Standards Study that was done in Guernsey last year, and you can look at the latest one for the UK. The differences are very significant. The rates that I am going to quote are for a single adult who is working, and it is take-home pay. In the UK, it is £262.25, which works out, if you work on the 40-hour week, at £6.55 per week. In Guernsey, it is £363.78, or just over £9 an hour for the 40-hour week. So Guernsey's minimum income standard is 39% greater than the UK. That is a very significant difference.

3145

I am not saying that the Minimum Wage should be the minimum income standards, but it gives a very clear indication that it costs significantly higher to live in Guernsey than the UK, and I believe the Minimum Wage should reflect some of that difference and not be so close to the UK's one.

3150

Some comments have been made about the Report that the Social Security Department took in March. We have a minimum income, effectively, with the Supplementary Benefit system now, but what the March Report was trying to do was come up with a fair benefits system, instead of the two benefits systems that we have now, which are Supplementary Benefit and rent rebate – one, of course, is more generous than the other, which is why it is so highly unfair – and propose a level of benefits based on evidence that is fair to everybody. A significant part of that Report was trying

to explore the issue of how to incentivise people to work and not the benefit culture, and that was one of the key proposals in that Report.

3155

Thank you, sir.

The Deputy Bailiff: Is there anyone else who wishes to speak in this debate?

Deputy Le Tocq.

3160

Deputy Le Tocq: Sir, I will be very brief, but just echo the words of Deputy Le Lièvre, who said that he would support these proposals with a heavy heart. I think probably the majority of us in this House feel similarly.

3165

In terms of social policy, Minimum Wage legislation, certainly by itself, is not a good social policy. As Chairman of the Social Policy Working Group, I would like to point out to this House that we are going to need, as a States, to seriously look at social policy afresh in the whole again, and the difficulty with debates such as this is that we are looking at just one particular aspect which obviously *does* affect social policy. There are obviously elements in which Social Security policy is being looked at as well today, but the problem is we cannot, piecemeal, make a decision and solve all the problems that we are seeking to solve just by taking the proposals before us today.

3170

So, sir, I think the Policy Council similarly felt, in supporting these proposals, that it was not a solution, long-term or short-term, to the sort of problems that we all are aware of. And so, like Deputy Le Lièvre, I would encourage the House to support the proposals, but with a heavy heart.

3175

The Deputy Bailiff: Deputy Le Tocq, I did not want to interrupt you, but I would encourage people *not* to refer to this as a House, because it is not a House. An Assembly will do. Anyone else?

Deputy Brehaut.

3180

Deputy Brehaut: Thank you, sir, just very briefly.

The language that Commerce and Employment have used in the past has been ‘make it happen’, ‘encourage business’, ‘make business work for the community’, and that assumes that Commerce and Employment can actively pull on levers, press buttons and pullies to make things happen.

3185

But the balance to that must be, of course, that this should also be the mechanisms at which you stop things growing like Topsy, and I think if we were to take the example of low-value consignment relief – though the moment has long passed, but we did encourage that type of business which we saw grow and now we are left picking up the debris, of course, from low-value consignment relief no longer being with us. So, on one hand, we argue we do not interfere in the market, but we actually do. We go out looking for a certain type of business. I do have concerns and I have no tolerance, if I am honest, with business models that rely *totally* on only working when the labour rates are so cheap. If you go to the bank and the bank says to you, ‘The only way this is going to get off the ground is if you pay the Minimum Wage,’ then I agree with Deputy Lester Queripel, it feels immoral.

3190

3195

Some years ago, when I was an overseer, as one gentleman was leaving the booth after I had paid him, he looked back at me and said, ‘Do you know, Barry, there is one thing money cannot buy and that is poverty.’ It was quite the pathos and it was a remark that stuck with me, and it reminds me that it is a long time since Prof. Townsend was over, and again we get back to the data that we do not have, and we do not know, actually, what is happening and Deputy Scott Ogier reminds us, if we look at the subsidy, quite rightly paid to States tenants, the quantum of the rent rebate, if we factor that in, along with every other benefit, the cost of not paying people a living wage is very great indeed.

3200

Thank you.

3205

The Deputy Bailiff: I do not see anyone else rising so, Minister, are you in a position to respond to the debate now?

Deputy Stewart: Yes, sir.

3210

The Deputy Bailiff: Deputy Stewart.

Deputy Stewart: Plenty of notes and technology, sir!

When I opened this debate, I said I was aware of the huge amount of public interest and not

3215 going through the Deputies in order, but the Deputy Chief Minister made a very good point that we need to look at social policy in the round. This was one of the first debates that my Board had. Should we, with the Report placed in front of us, should we talk to SSD? This has all the implications that we have talked about today: what is the impact on industry? We had no information on that. This is why the Board resolved to put the increases as they are presented to
3220 the States today, rather than pick a figure out of the air and then wonder what the consequences of that might be and some of those consequences could be significant without having the data to hand.

Deputy Laurie Queripel made the point, many of us round the table felt, should it be £7, should it be £7.50, should it be £8? What should that Minimum Wage be? How does that impact on SSD, for example.

3225 Deputy Fallaize, you made the point about comparing us with the cost of living of other jurisdictions and I think that Deputy Langlois made a good point that we cannot *always* compare ourselves to other jurisdictions and the timing of when they bring in their minimum wage, though, of course, it is something of a yardstick.

3230 On the specific point of Condor, what I would say to you is that, first of all, I wrote that letter and honestly said to you, I had not consulted with my Board, because I wanted, first of all, to give you a speedy reply, as that was a topic in the media at the time. In fact it was more of a legalistic reply, in the fact of whether that is within our jurisdiction. The latest guidance from the UK government on the minimum wage for seafarers states,

3235 ‘...in order to determine whether a seafarer ordinarily works in the UK...’

– and thus we can say, Guernsey –

3240 ‘...a compliance officer should consider which country the seafarer’s employment base is in, as recent case law supports the view that it is likely to be the place where the seafarer is to be treated as *ordinarily working* under the terms of his contract. In determining this, a compliance officer should take into account a number of factors: where the seafarer’s tour of duty begins and ends; where the seafarer is subject, importantly, to Income Tax and National Insurance contributions.’

3245 As you will be aware, unless and until a court in England and Wales casts doubt on that guidance, we would reasonably expect the Guernsey courts to follow in a similar vein. So, as such, if any of the relevant workers on Condor have their employment base in Guernsey, and whether they pay local tax and insurance, has bearing on this.

3250 The following thing, as a point of law, is that we do not have seek and find powers under the current Minimum Wage legislation. We have to wait until there is a complaint to the Department. We will then follow that up in very quick time and, in fact, Deputy Luxon did raise a point from the Billet that actually we say ‘no complaints have been received’. I can say, due to the engagement we have done since this has been in the public domain – and there has been quite a lot of interest – we have indeed had a complaint and it was a justified complaint and we followed it
3255 through within a couple of days. The company involved had made, in the judgement of the investigating officer, a genuine mistake and had put the wage right. So, if I could use this opportunity for people listening to this debate that if people feel they are being paid under the Minimum Wage, they should come forward. In this case, the person was treated anonymously and that is how we will treat all cases, if people so wish.

3260 In terms of the Memorandum of Understanding coming back to your point of Condor, Deputy Fallaize, it is not in C & E’s gift to interfere with the Memorandum of Understanding with Condor, that is a role for the External Transport Group. However, I am sure and the note I have received across the floor of the Assembly from Deputy Luxon, there is no doubt we could raise this with Condor. However, there is the jurisdictional problem, but obviously Condor themselves
3265 have a public image to preserve and brand values which they want to put to the public, so I am sure they will be receptive to our comments.

Deputy Fallaize: Sir, may I ask Deputy Stewart to clarify something?

3270 Who on earth is this External Transport Group? I do not remember setting them up as a committee of the States, or electing anyone onto it. This must fall under the mandate of one Department or other.

Deputy Stewart: It does fall under C & E. However, it is chaired by Paul Luxon, but it is not my Board that sits on the External Transport Group, it is a mixture of PSD and C & E and reports
3275 back up into both Boards.

The Deputy Bailiff: Deputy Stewart, could I just remind you to refer to fellow Members as ‘Deputy’ or ‘Alderney Representative’, rather than just by their first names?

3280

Deputy Stewart: Yes, sir.

However, we will, as suggested by Deputy Fallaize, raise this issue with Condor, however there are jurisdictional problems.

3285

Deputy Lester Queripel spoke passionately about a minimum wage and a living wage and some of the jobs that are advertised in SSD which, indeed, the Minister confirmed that many of them were quite unskilled and filthy jobs are just paying the Minimum Wage and in my opening speech, sir, I said that the view of my Board at the moment is often the Minimum Wage now is used as a benchmark.

3290

Deputy Bebb resolved that we wanted to work across Departments and indeed that is something my Board wants to do with a much more significant review. We need to talk to SSD, we need to consult with T & R, we need to consult with Housing.

Deputy Sherbourne commented on the process, that we will have a more thorough review, and that is something that we certainly will do and that is underway at the moment.

3295

So, the Minister for SSD, Deputy Langlois, to me spoke an awful lot of sense. There can be many unintended consequences, the way that Government can interfere and, again, this is why we set the levels for this time at these levels, rather than picking out £7, or whatever, as I said before. Market interference and, in fact, the Minimum Wage was discussed in the UK not so long ago. They had two eminent economists, one of them totally in favour of a minimum wage and setting that, and the other one saying, absolutely not, you should not do it. There is no perfect answer to this, but I hope with the Departments being joined up in a wide consultancy that we can arrive at perhaps a sensible, social solution.

3300

Deputy Hadley summed up, again, the initial dilemma that my Board had, based on the lack of research that we had presented. As I said in my opening speech, already the Guernsey Growers Association wrote to me saying that just a meagre rise from £6.15 to £6.30 would put some of their members out of business. I have not seen the evidence to date and, going forward, I shall ask for that evidence. Also from some members in the hospitality industry, who may also claim the same thing, but it is important that, going forward, we base our decisions on evidence.

3305

Again, Deputy Gollop mentioned interference with the market and Government should be careful not to interfere or distort the market too much – another point well made. Deputy Ogier, referring back to my initial speech where I quoted paragraph 2.4, is it a subsidy to industry, are we, the taxpayer, having to subsidise some areas of hospitality, some areas are growing, only to find there is a burden on the taxpayer, which is a demand-led benefit, which is very detrimental to the States in its attempts to balance its books?

3310

Again, Deputy Le Lièvre made some excellent points in terms of how this needs to be looked at in the round, rather than just as an individual piece of social policy. I take Deputy Green’s point about young persons and the adult wage and we will address that in the next report and we will look at whether median earnings should be part of the equation.

3315

Finally, Deputy Brehaut, one of the points I made in my reply to the Guernsey Growers Association and their reaction to the rise to just £6.30 was do Islanders really want to buy produce that has been produced and grown by workers on such a low wage? In many ways, it is not only the Government that is involved with this, it is the people of Guernsey to vote with their wallets and to ask more questions, perhaps, themselves.

3320

I do hope the House supports these recommendations. My Department will take forward all your comments and, thank you, because it is important that, following a significant review, we can get this piece of social policy joined up and a fair review undertaken.

3325

The Deputy Bailiff: Thank you, Minister.

Members of the States, there are two propositions, which you will find at page 1895 in the Billet.

3330

I am proposing to take the two together, because the second is, effectively, encompassed in the first. The Minimum Rate (Prescribed Rates) (Guernsey) Regulations, 2012 are printed as appendix 2 to the Report at pages 1889-1894. Those Regulations have been made by the Commerce and Employment Department, but they can only come into effect, as planned, on 1st October, if there is a vote in favour of them by you this afternoon.

3335

So I am going to move the vote and say, all those in favour; all those against.

Members voted Pour

The Deputy Bailiff: I am going to declare that carried.

3340

**Comments through the Presiding Officer
Ruling by the Deputy Bailiff**

3345 **The Deputy Bailiff:** Before we move on to the next Item, I apologise again for nitpicking but, in the context of the reply to the debate that was just given by Deputy Stewart – just to take this as an example – there was too much direct reference, particularly to particular Members, Deputy Fallaize in particular.

3350 Once again, I would encourage Members, do address your comments through the presiding officer, rather than talking across the Chamber to each other.

Deputy Stewart: Apologies, sir.

3355 **The Deputy Bailiff:** I just draw attention. No, it is a fair point to make at this early stage, Deputy Stewart.

HEALTH AND SOCIAL SERVICES DEPARTMENT

3360

**The Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008
Registration of Pharmacies, approved**

Article XIII:

3365 *The States are asked to decide:-*

Whether, after consideration of the Report dated 10th July, 2012, of the Health and Social Services Department, they are of the opinion:-

3370 *1. To agree that Part IV of the Law should come into force on 1st June 2013.*
2. To agree that only a pharmacist who has been qualified to practise as a pharmacist in the UK for at least three years, and is not prohibited from practising under the Law, shall be permitted:

i) to carry on a retail pharmacy business, or

3375 *ii) to be a superintendent pharmacist for a body corporate carrying on a pharmacy business, or*

iii) to have personal supervision of a retail pharmacy carried on by a body corporate.

3. To agree that in the case of UK-registered pharmacists, the Health and Social Services Department shall have the power to take regulatory action (to disqualify a body corporate or a representative of a pharmacist) which is consistent with any decision of the relevant disciplinary committee.

3380 *4. To agree to specify the grounds for appeal and the procedures applying in the case of an appeal against regulatory action taken by the Department.*

5. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

3385 **The Deputy Bailiff:** The Deputy Greffier.

The Deputy Greffier: Article XIII. Health and Social Services Department, the Medicines (Human and Veterinary) Bailiwick of Guernsey Law 2008, Registration of Pharmacies.

3390 **The Deputy Bailiff:** I invite the Minister of the Health and Social Services Department, Deputy Adam, to open this debate.

Deputy Adam: Thank you, Deputy Bailiff.

3395 I hope that this simple and short Report is less contentious than the last one, sir.

As it states, it relates to Medicines and Veterinary Law (Bailiwick of Guernsey) and, basically, what this States Report is wishing to do is to introduce what is called Part IV of this Law.

The main Law was brought into force with effect from 1st October 2009. This is introducing

Part IV, which is in regard to establishing a licensing system for pharmacies in the Bailiwick.

3400 There are two changes to the initial Law, firstly, to apply a slightly more onerous standard of professional qualification for pharmacists in charge of pharmacy businesses: that is, a pharmacist who is in charge of a pharmacy, for instance, must have had three years' qualification and, secondly, to clarify its regulated powers in the case of UK-qualified pharmacists triggered only upon the disqualification of a pharmacist by a relevant disciplinary committee and to clarify grounds and procedures for appeal in the case of an appeal against the exercise of the Department's regulatory powers. These issues are expanded in the Report and I hope they will be accepted by this Assembly.

3405 Sir, may I continue and say I believe there is an amendment to be laid by Deputy Hadley and Deputy Perrot in relation to trying to clarify this aspect of the qualifications of a pharmacist. If I can say, the Department accepts the amendment, in that it is asking that if there is a locum in place, in charge of a pharmacy, they need not have three years' experience. What we are saying is that the chief pharmacist in charge of a pharmacy must have at least three years' experience as a pharmacist. If he goes off on holiday for a short time, etc, then the locum is not required to have that length of time.

3410 *We* thought it was clear enough in the States Report, but Deputy Hadley, with his hat as a pharmacist, wished more clarification and is bringing forward an amendment.

The Deputy Bailiff: Thank you, Minister.

3415 Your proposed amendment, Deputy Hadley, has just been trailed by the Minister. It is time for you to move that now, if you still wish to.

Deputy Hadley: Yes, sir, I would like to move the amendment:

In proposition 2 after the words 'To agree' to insert a comma and to add the words 'subject to 2A below'.

3425 *To insert a further proposition between proposition 2 and proposition 3 as follows –*
'2A To agree that in relation to propositions 2(i) and 2(iii) a newly qualified pharmacist who has been qualified to practise as a pharmacist in the UK for less than three years shall be permitted to assist a principal pharmacist or, in certain circumstances to provide temporary locum cover for a principal pharmacist, such circumstances to include, for example the illness, or temporary absence of the principal pharmacist, where that principal pharmacist has been qualified to practise as a pharmacist in the UK for at least three years.'

Members are familiar with the amendment, aren't they, sir? Do I need to read it out?

3435 **The Deputy Bailiff:** I doubt you need to read it out. Every Member has been circulated with the amendment in advance.

Deputy Hadley: Well, Mr Deputy Bailiff, I have brought this amendment because I think the Report does lack clarity, in particular in relation to item 4 on page 1896, because that says that only experienced pharmacists should be able to have personal supervision of a retail pharmacy carried on by a body corporate. This could be taken to mean that a pharmacist could not be employed as a locum or as a manager of a pharmacy unless they have been qualified for three years and, as the Minister says, that is not what the Department intends.

3440 I should just remind Members that to qualify as a pharmacist in the UK, it is necessary to have a Masters Degree in Pharmacy and then work for a year under the supervision of another pharmacist and, at the end of that time, take a further set of exams. So they are well qualified when they finish.

3445 At the present time, a pharmacist could open a pharmacy in the Island, or could be a superintendent pharmacist of a company. I should explain again that there are two ways of owning a pharmacy: a pharmacist can own a pharmacy as an individual but sometimes – and usually, nowadays – a company owns the pharmacy and the law says that a director of that company has to be designated as the superintendent pharmacist to supervise the work of the company.

3450 What the Department is doing with this proposal is to say that to be a superintendent pharmacist of a company, or to be a proprietor pharmacist, you have got to have been qualified for a minimum of three years.

Sometimes a company will operate more than one pharmacy. Each of the pharmacies would normally have a manager operating that pharmacy. The person who has overall responsibility for the standards in each of the pharmacies will be the superintendent pharmacist and what the report

3460 *seems* to indicate is that the person – I think it uses the term ‘personal supervision of a pharmacy’
– has to have been qualified for three years. What the Department *really means* is personal
supervision *of the business*. In the case of a company that has a number of pharmacies, the person
who is deemed, in law, and by what the Department means, to have that personal supervision is
3465 the superintendent pharmacist which we are now saying should have been qualified for three
years, but any of those individual pharmacies could be managed by a pharmacist who is newly
qualified and has just stepped off the boat from the United Kingdom.

One of the Members has said that he is a bit unhappy about that situation, but it all does make
sense, because what we are saying is that the person who has the ultimate responsibility for setting
standards, protocols and the ethos of the business should have been qualified for three years. It is
not meant to exclude newly qualified pharmacists supervising the sale and supply of medicines at
3470 a particular point.

I hope that clarifies the point of the amendment. (*Laughter and interjections*)

The Deputy Bailiff: Thank you, Deputy Hadley.

3475 **Deputy Brehaut:** I got the ‘Mr Bailiff’ bit!

The Deputy Bailiff: Deputy Perrot, are you formally seconding that amendment – (*Laughter
and interjections*) and reserving your right to clarify?

3480 **Deputy Perrot:** Yes, I think it was all quite clear! (*Laughter*)

The Deputy Bailiff: Thank you very much.

Is there going to be any debate on the amendment or shall we...? There has been an indication
from the Minister that the Board is not opposing it.

3485

Deputy Gollop: I want to make a brief point on the amendment and bring in a wider issue.

The Deputy Bailiff: Well, before you start off, Deputy Gollop, I was minded to run the
amendment in general debate, because the two are so interlinked. If anyone wants to speak solely
3490 on the amendment, then please do indicate that.

But we will hear you, Deputy Gollop.

Deputy Gollop: It is just that, as we have already perhaps joked, this is a complicated
technical matter, but it is just the kind of issue we, on a monthly basis, if not more frequently than
3495 that, face on the Legislation Select Committee.

A States Report has gone, prepared by a Department to the Assembly. The Assembly approves
it, maybe amended – and I actually will support the amendment – and then it goes to St James
Chambers to draft. We then have to make some sense of what the States resolved and the thinking
behind it, and this is a concern, because my initial reaction to this Report is it is an interesting
3500 piece of work from HSSD, but it is not the greatest priority that Department or we as an Assembly
face.

I also wanted to know more, such as what was the general practice in the United Kingdom and
other places and were we actually just regulating and restricting the free market? Effectively, we
are potentially stopping a young, not particularly experienced pharmacist from competing with
3505 existing pharmacies.

So I have got personal misgivings about the need for this particular measure at this time.

The Deputy Bailiff: Does anyone else wish to speak at the moment, either on the amendment
or in general debate?

3510 Deputy Lester Queripel.

Deputy Lester Queripel: Thank you, sir.

I did have a word, briefly, at lunchtime with Deputy Hadley. Just a point of clarification, sir. I
am still not really clear, to be honest.

3515 In a press report, Deputy Hadley is reputed to have said, ‘What I don’t want is newly qualified
pharmacists setting up a business from scratch, but if someone is on holiday, they could go in to
cover.’

My point of confusion, sir, is – it might be quite obvious to everyone else, but I am still a little
bit in the dark here – is Deputy Hadley actually saying that he does not want newly qualified

3520 pharmacists setting up a business because they are *inexperienced* but it is perfectly alright for them to cover, because then their inexperience does not matter?

That is the confusion I would like allayed, please, sir.

Thank you.

3525 **The Deputy Bailiff:** You will get your opportunity later, Deputy Hadley.

Anyone else, at the moment, wishing to speak?

Then I turn to the Minister to reply on the amendment, which might be quite brief.

3530 **Deputy Adam:** Thank you, sir.

As already stated, sir, Deputy Hadley took the time to phone up the Chief Pharmacist of HSSD and discuss this issue in depth and then kindly phoned me up and told me he was bringing an amendment in relation to this.

3535 Basically, what he is saying is the person who is overall in charge must have three years' experience as a pharmacist. If that business has more than one pharmacy, the individual managers can be less qualified; or if someone owns one pharmacy, they have to have three years' experience, but if they go on holiday, the person taking over only requires one year.

3540 The reason for that is very simple. All businesses that deal with human life and the potential of danger – and you say regulation is not necessary! – to people, sir, must be regulated, must have formal protocols laid down precisely, so they can follow these protocols clearly. A lot of pharmacists survive with technical... I think they are called pharmacists' technicians nowadays – because, as we all know, they go to a shelf, and if they can read that it is *Brufen*, they can take it off the shelf and read the prescription.

3545 But it is important to have a clearly laid down method and protocols within these businesses to give safety and security when prescriptions are being given out to individuals.

I should let Deputy Hadley say more about that aspect, because that is his field.

As I have said, sir, HSSD is quite happy with the amendment. Deputy Hadley's concern was similar to what Deputy Gollop said: when you go to drafting, it is to ensure that the instructions, if you like, for the law officers are clear from what has been approved in the States.

3550 **The Deputy Bailiff:** Thank you very much.

Deputy Hadley, then, to reply as the proposer of the amendment, on the amendment.

Deputy Lester Queripel: Sir, might I just make a point of clarification, sir?

3555 **The Deputy Bailiff:** Is this on the amendment, Deputy Queripel?

Deputy Lester Queripel: It is just in relation to Deputy Adam's comments, sir.

3560 **The Deputy Bailiff:** Can we get the amendment out of the way first, (**Deputy Lester Queripel:** Yes, sir.) if it is not on the amendment?

Deputy Hadley.

3565 **Deputy Hadley:** Mr Deputy Bailiff, in answer to the question posed, we are saying that it is perfectly acceptable for a newly qualified pharmacist to go into an established pharmacy and supervise the dispensing of prescriptions. That is acceptable.

It is also acceptable for a newly qualified pharmacist to take on the role of manager of a branch pharmacy of a company which has a number of pharmacies. That again is acceptable.

3570 What we are saying, sir, is that it is not acceptable for the superintendent pharmacist, who has the overall responsibility for setting up the protocols and the ethos of the business to be qualified less than three years. Again, if we come back to a newly qualified pharmacist setting up a pharmacy on the Island, we would not want that to occur, because working from scratch with no years of experience behind them, there is a risk that they will not get the ethos right, the protocols right, the staff, and if you have a pharmacist coming to manage such a business, then the established staff will be there, the procedures will be in place, and the place will run smoothly,

3575 almost without the pharmacist – although that is not the case.

3580 There is a further point to make, as regards this. It is also the point that a pharmacist with a number of years experience behind them, acting as a superintendent pharmacist, will probably have the clout and experience to stand up to other directors who might want to impose working conditions that are professionally not acceptable, whereas a newly qualified pharmacist might not be able to do that. That was flagged up – I should have mentioned that – as one of the concerns of

the Chief Pharmacist for the Island. There is a well-known multiple on the Island which is a subsidiary of a UK company and the Island has its own superintendent pharmacist for that company. We want to be sure that that pharmacist is well enough experienced to stand up to off-Island directors.

3585 So I hope, sir, that clarifies it a bit further.

Deputy Lowe: Can I just ask, though you, sir, back to Deputy Hadley, a few years ago – and I think it is still in practice – Social Security encouraged patients and, indeed, through the doctors as well to go through a pharmacist who would actually go through the prescriptions with the individual concerned, to see what they had actually taken and to see if it was safe, etc.

3590 Would that apply? Would the type of pharmacist that Deputy Hadley is talking about have enough experience, during this holiday period, to be able to deal with the patients, who would be going in to say ‘Do these drugs clash?’, ‘Should I still be on this?’, ‘Should I be on blood pressure tablets?’ etc?

3595 **The Deputy Bailiff:** Deputy Hadley, are you able to assist Deputy Lowe in clarifying how the amendment will affect that issue?

3600 **Deputy Hadley:** It will not affect it at all, sir. A newly qualified pharmacist will be well educated as far as drug interactions are concerned and, indeed, computer systems that are used in the pharmacy have these on a database, so if a pharmacist tried to dispense two drugs which interacted with each other, then the computer system would flag that up, sir.

3605 **The Deputy Bailiff:** So we move to the vote on the amendment.

The amendment that you should all have, proposed by Deputy Hadley and seconded by Deputy Perrot, is principally to insert a new proposition 2A into the propositions that you will otherwise find on page 1902.

All those in favour of the amendment; all those against.

3610 *Members voted Pour.*

The Deputy Bailiff: I declare the amendment carried.

3615 I do not wish to curtail debate, but I was going to turn to the Minister to wind up the debate. Is there anyone else who wishes to speak in general debate?

Deputy Adam: Sorry to interrupt you, sir, but Deputy Queripel wanted to say something about what I said.

3620 **The Deputy Bailiff:** Yes, that was a point of clarification.
Nobody else wishes to speak? So Deputy Lester Queripel, you had a point of clarification for the Minister before we go to the final vote.

3625 **Deputy Lester Queripel:** Yes, thank you, sir.
Deputy Adam seems to have got the impression I said regulation was unnecessary, sir. I did not say that at all. All I was looking for was merely some clarification, sir.
Thank you.

The Deputy Bailiff: Deputy Adam, then, the Minister to reply to the debate, if necessary.

3630 **Deputy Adam:** Thank you, sir.

I would suggest that what you have just said is to suggest it is not that necessary. One thing I would like to say, what Deputy Lowe was mentioning was something called MUR, which is Medicines Use Review, which is conducted by pharmacists and I suggest that most patients would prefer to go and see their regular pharmacist to have this done.

3635 The only thing I can say is that I believe the MURs have been discontinued within the last month or so and therefore it does not actually apply.

3640 As far as I see again, Deputy Queripel is on about the greatest priority and regulation. Sometimes I feel regulation is not organised and laid out properly within Guernsey in some fields and we are actually – HSSD is actually looking at regulation of doctors, pharmacists, residential homes, nursing homes etc – so there is a standardised way of it being performed at arm’s length from any Government body. So the Government cannot interfere with regulation. It will be set up,

laid out clearly and policies laid down by it. I trust the Assembly will accept this Report.

Thank you, sir.

3645 **The Deputy Bailiff:** Minister, can I just check that, effectively, the propositions, as amended, are a package of propositions? So unless any Member wants me to take any propositions separately, I could put them all together.

Minister?

3650 **Deputy Adam:** Yes, sir.

The Deputy Bailiff: Thank you.

Is there any request for any separate date on any individual proposition? (*Interjections*)

Proposition 2.

3655 In that case, what we will do is take proposition 1 first, then.

All those in favour; all those against.

Members voted Pour.

3660 **The Deputy Bailiff:** I declare proposition 1 carried.

Proposition 2, then.

All those in favour; all those against.

Members voted Pour.

3665 **The Deputy Bailiff:** I declare proposition 2 carried and I propose, therefore, to take proposition 2A through to proposition 5 together.

All those in favour; all those against.

3670 *Members voted Pour.*

The Deputy Bailiff: Once again, I declare those propositions carried.

So all six propositions have been carried.

3675

Procedural

3680 **Deputy Ogier:** While we seem to be having a day of illuminating Members on the rules of protocol in the Chamber, would you clarify whether it is permissible for a Member to address you while seated, sir?

The Deputy Bailiff: It is not desirable, Deputy Ogier, and I am sure that Members know they should at least make an effort to rise to their feet before speaking. (*Laughter*)

3685 I will also take this opportunity to respond to a request that was made earlier about removing jackets; but if the temperature is rising sufficiently for any Member that they wish to remove their jackets, they have permission to do so.

Deputy Greffier.

3690

SOCIAL SECURITY DEPARTMENT

Contribution rates for 2013

Debate commenced

3695

Article XIV.

The States are asked to decide:-

Whether, after consideration of the Report dated 10th July, 2012, of the Social Security Department, they are of the opinion:-

3700 *1. That, for employed persons, the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit, from 1 January 2013, shall be £2,295, £9,945 and £119,340 respectively.*

3705 2. That, for employers, the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit, from 1 January 2013, shall be £2,496, £10,816 and £129,792 respectively.

3. That, for employed persons and employers, the lower weekly earnings limit and the lower monthly earnings limit, from 1 January 2013, shall be £125 and £541.67 respectively.

3710 4. That, for self-employed persons, the upper earnings limit and lower earnings limit, from 1 January 2013, shall be £119,340 per year and £6,500 per year, respectively.

5. That, for non-employed persons, the upper and lower annual income limits, from 1 January 2013, shall be £119,340 per year and £16,250 per year respectively.

6. That the allowance on income for non-employed people from 1 January 2013, shall be £6,895 per year.

3715 7. That the voluntary contribution from 1 January 2013, shall be £17.81 per week for non-employed people.

8. That the overseas voluntary contribution from 1 January 2013, shall be £85.32 per week for non-employed people and £94.32 for self-employed people.

9. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

3720

The Deputy Greffier: Article XIV, the Social Security Department contribution rates for 2012.

3725 **The Deputy Bailiff:** Deputy Langlois, the Minister of the Social Security Department, to open the debate, then.

Deputy Langlois: Thank you, sir.

Sir, I rise to propose my first stage report as a Minister and I am very conscious, in doing so, that I am delivering this speech in slightly unusual timetabling circumstances that have emerged.

3730 It has been customary for the Social Security Department to report to the September States debate with proposals for contribution and benefits rates which will apply from January the following year.

3735 As we are all aware now, this year the approach is different. This has come about for a number of events and conversations starting very shortly after the Election and they really do not merit any further discussion or debate today, suffice it to say that the Social Security Department, the Treasury and Resources Department and the Policy Council are determined to move towards a more holistic approach to planning the revenue and expenditure of the States overall. So the contributions and benefits elements of our report for this year sit in two separate States reports because that is a direction that, longer term, we are heading.

3740 Today, we are proposing the 2013 contribution rates and our proposal on benefits rates will be debated in the October States meeting. Now, of course, the October Billet is already published, so Members are aware of the details of our proposals, which will be debated next month. However, today *is* about contributions and that is where our focus should be.

3745 Turning to the proposals in the Report, Members will note that we are not recommending any changes in the percentage rate of contributions. This is despite the fact that the Report reveals an operating deficit in the Guernsey Insurance Fund, which is expected to be around £8.9 million in 2012, but before investment income is taken into account. Our investment returns put the revenue accounts back into balance. But, sir, Members need to understand that this maintains one part of a long-term strategy to adjust the size of the funding buffer held in the Guernsey Insurance Fund. The proposals are in line with this long-term strategy, but they are also influenced by a further delay in a States decision on overall fiscal strategy, including the future of corporate taxation.

3750 In short, sir, both this month and next month States reports are holding operations, the details of which had to be agreed by my Board within just weeks of taking office. My Board, sir, is very aware that the long-term sustainability of the Fund must be resolved, especially in the light of demographic projections and the arithmetic of that situation is very simple, in that a long-term balance can be achieved only through one of three routes, or a combination of those three routes: increased benefits rates... sorry, increased *contribution* rates – a small slip there! – *reduced* expenditure on benefit, or increasing the States grants to the funds, and it is a combination of those three transactions which will produce some long-term balance.

3760 We, as a Board, were not prepared to recommend dramatic changes on this occasion before further aspects of overall fiscal strategy and further decisions have been made. We are therefore recommending no changes in the percentage rates of contributions, while also recommending some increases in upper and lower earnings limits. The reason for these two recommendations is

3765 slightly different. My board is not prepared to recommend any increases in contribution rates because of the possible effects on an economy, which is not growing as fast as we would wish and because of the need for contribution rates to complement Income Tax and other tax rates and obligations in a fair and balanced way, something that can be achieved only when a broader fiscal strategy has been firmly established.

3770 Secondly, it is normal for upper and lower earnings limits to increase by the same percentage as that recommended for benefit increases so that the system stays in overall balance. So we have declared a proposal for a 3.6% increase in contributory benefits, representing an RPIX of 3.1%, plus an additional 0.5%. This proposal is matched by our proposal for most earnings limits to be increased by 3.6%. However, we are recommending a 13.5% increase in the upper earnings or
3775 income limit for employed, self employed and non-employed people. Members must remember that this proposal is in accordance with the resolution of the States to establish parity between the employers and employees upper earnings limits, spread over a five-year period, and our proposals on this occasion are step four out of those five steps.

You will see, if you look at the figures, that for those fortunate enough to be in that upper earnings bracket, this proposal represents quite a modest increase in contributions. It is likely that
3780 we will be recommending seeing through the five-year plan, but at present we have no plans at all to extend the upper earnings limit beyond that point after next year.

Sir, I need to cover one small technical point relating to the splitting of the two Reports. With the benefit proposals going to the October States meeting, we will have the situation – a very topical one, I think, in view of the weather in the last week or two – where the first payment of the winter fuel allowance for Supplementary Benefit householders will be made in the week preceding the October States meeting. The level of winter fuel allowance is given effect by a resolution of the States, not by legislation, and only applies to the current autumn and winter. This procedural arrangement probably needs looking at; but, sir, on this occasion we will be paying one week's fuel allowance ahead of the States resolution. I trust and anticipate that this should not present any
3785 problem for Members, but raise it for the sake of transparency.

Before I close, I should like to comment on Treasury and Resources expression of surprise at our proposals for an RPIX, plus 0.5% increase in some benefits. Our clear intention, with a change from the recent years in which RPIX plus 1% had become the norm, is to indicate the first signs of the direction of travel. We have, in effect, eased off the accelerator pedal, partly to reflect the very slightly more advantageous rises enjoyed, particular by pensioners, over the last six years, and partly to signal that continuous increases in benefit levels, especially above inflation, should not be taken for granted, should not necessarily be the norm or the general expectation.
3790

As I have already stated, my Board recognises the need for overall fiscal balance. The question is, at what pace can that be achieved? We are *not willing* at this time to make any more dramatic changes and especially those that would affect the most vulnerable people in our community.
3800

In conclusion, sir, I am asking for the States approval of this half of our 2013 proposals in the full knowledge of what is contained in the other half, which we will debate in detail next month. My Board believes that this represents a good set of very balanced proposals in anticipation of far more far-reaching fiscal decisions that have to be made in the coming year or so. In recognition of that, I am not proposing to register any objections to the amendment which is being proposed by Deputy Fallaize, which simply sets, in our view, a sensible timetable for firming up those longer term plans.
3805

This is the start of a long journey to inject more balance and fairness into our Social Security system at a time when economic pressures are all around us. Without overall economic wellbeing, the funds will not be available to create the support which is needed and provided by an appropriate level of social welfare.
3810

Please, Members, support these recommendations.

The Deputy Bailiff: Thank you, Minister.
3815

Members of the States, as you heard in the Minister's opening, it is an unusual position this year, in that you have got half of the Social Security Department's proposals and I remind you simply of Rule 12.2, that debate must be relevant to the matter before a meeting. So the matter before the meeting this month are the contribution rates, not the benefit rates. So I encourage you, as far as possible, to concentrate on the propositions that are subject to debate this month rather than broadening your comments into what might be debated next month.
3820

Deputy Fallaize, you have an amendment to move.

Deputy Fallaize: Yes, thank you, sir. I hope all Members have a copy of the amendment. I apologise that I was quite feeble and missed the Greffier's deadline and so I had to circulate it

3825 myself, but I hope those Members who requested hard copies did receive the copies I posted out.

The Deputy Bailiff: Shall we just check that all Members have a copy of the amendment to be proposed by Deputy Fallaize and seconded by Deputy Gillson in front of them?

3830

Deputy Fallaize: Thank you, sir, and I thank Deputy Gillson for seconding the amendment:

1. To insert a new Proposition 10 as follows:

3835

'10. To direct the Social Security Department to report to the States of Deliberation by no later than October, 2013 with proposals setting out any structural reforms and changes to contribution and/or benefit rates which it considers necessary in order to ensure the long-term sustainability of the Guernsey Insurance Fund.'

2. To insert a new Proposition 11 as follows:

3840

'11. To direct the Social Security Department to report to the States of Deliberation by no later than October, 2014 with proposals setting out any structural reforms and changes to contribution and/or benefit rates which it considers necessary in order to ensure the long-term sustainability of the Long-Term Care Insurance Fund.'

3845

The amendment is not borne out of any dissatisfaction with the Social Security Department. I am not intending to criticise Social Security in laying this amendment. In fact, I think that successive chief officers and presidents and members of the Social Insurance Authority, and then later the Department, have been very conscientious and responsible in managing the Island's Social Insurance and Security Funds. However, there are times when this Assembly, acting as the Island's Government, has to give some direction to its sub-committees, which effectively is what the States Departments are, and I think that this amendment will help to concentrate Social Security's mind and, hopefully, expedite the important task of sustaining the Guernsey Insurance Fund and the Long-Term Care Insurance Fund.

3850

3855

The Guernsey Insurance Fund is, basically, the Island's pension reserves and the Long-Term Care Insurance Fund is designed to make residential care affordable for the elderly population. I think it is fair to say that they are both among the most popular and probably the most visionary schemes ever introduced by Government in Guernsey. Incidentally, it is worth reminding ourselves that the Long-Term Care Insurance Fund was driven through the States by the Social Insurance Authority in the face of very fierce opposition from Advisory and Finance at the time, then the senior-most Committee of the States, and it perhaps provides a timely reminder that the centre does not always know best, and I would encourage the Social Security Department to bear in mind that history in respect of the Long-Term Care Insurance Fund when they design their proposals to sustain the Fund.

3860

3865

Some years ago, the States identified that the Guernsey Insurance Fund and the Long-Term Care Insurance Fund were both unsustainable in their present form. They would both run out of money eventually. The Guernsey Insurance Fund, if contribution and benefit rates remain as they are, during the 20-30s, and the Long-term Insurance Fund within the next 15 years. As the Minister has said, the only way of resolving this problem is through one, or a combination, of increase in contribution rates, decreasing benefit rates, amending the States grant from General Revenue, or possibly changing the eligibility criteria for drawing benefits.

3870

3875

If the States continues to prevaricate, then the problem, of course, will get much worse. Ultimately, the looming structural deficit – not the operational deficit which applies year on year on the Fund, but the structural deficit, largely as a result of demographic changes – could mean increases in contribution rates of up to five percentage points or substantial cuts in expenditure on pensions, or additional costs to States General Revenue of up to £90 million per year. The longer the States leaves it before putting in place the measures necessary to sustain the Funds, the more radical and dramatic the changes will have to be. With every year that passes, the increase in contribution rates or the decrease in benefit rates will get greater.

3880

The last Social Security Department in the previous States had a go at trying to resolve part of this problem at least. They put forward proposals which, in my view, were incorrectly rejected by the States at the time, but even in the time that has passed, the increase in contribution rates will have to be greater than the Department proposed at that time because, as I say, the longer we go without collecting the additional contributions or lowering the payment of benefits, the more radical the measures have to be.

3885

Sir, I am basically, in laying this amendment, asking the new States to do three things: first, to agree that the time for prevarication and inaction on this matter is over; second, to make a

3890 commitment that this will be the States that secures the long-term future of pensions and Long-
Term Care provision in the Island; and, third, in order to enable the States to do that, to leave the
Social Security Department with an explicit direction to report to the Assembly with all proposals
necessary to sustain the two Funds in the long term by October 2013, i.e. by the time of next
3895 year's uprating report in the case of the Guernsey Insurance Fund, and by October 2014 in the case
of the Long-Term Care Insurance Fund. It is not a misprint: the reason that the two dates are
slightly different is that I think it is generally acknowledged that, in respect of the Guernsey
Insurance Fund, there will be a not straightforward but certainly not terribly complex change in the
contribution rates or the benefits payable from the Fund, whereas, in the case of the Long-Term
Care Insurance Fund, it may be necessary to make more structural changes to the Fund. So I think
Social Security will need the additional time in respect of the Long-Term Care Insurance Fund.

3900 I hear what Deputy Langlois says about Social Security Department needing to work with T &
R and the Policy Council and all of that is true but, in terms of mandates and legislation, the
responsibility for the Guernsey Insurance Fund and the Long-Term Care Insurance Fund remains
squarely with the Social Security Department and it is entirely appropriate, therefore, that I think
we should have in place a States resolution and a direction to the Department along the lines of
this amendment, and I thank the Minister for indicating that the Department will not oppose the
amendment and hope that Members will support it.

3905 Thank you, sir.

The Deputy Bailiff: Thank you, Deputy Fallaize.
Deputy Gillson, do you formally second the amendment?

3910 **Deputy Gillson:** Yes, sir, I do.

The Deputy Bailiff: And reserve your right to speak?

Deputy Gillson: Yes, sir.

3915 **The Deputy Bailiff:** Members of the States, the subject matter of the amendment is quite
distinct in many respects from the propositions of the Department. I was proposing to have a mini-
debate on the amendment alone, bearing in mind that the Minister has indicated the Department is
not opposing it.

3920 Does anyone wish to speak on the amendment?

Deputy Storey: Sir, I was hoping that you would go the other way and say that you could run
the two, because I would like to speak on both. I appreciate it is your decision, but I just place that
point of view before you, sir.

3925 **The Deputy Bailiff:** Do you have a view at all, Minister, as to whether we take it in general
debate?

Deputy Langlois: I think it is all the same either way. I have no... Sorry *(Laughter)*

3930 **The Deputy Bailiff:** Sorry, your short-term memory leaves something to be desired!

Deputy Langlois: Memory is one thing, sir; stature is another, *(Laughter)* and I thought
nobody would notice! *(Laughter)*

3935 **Deputy David Jones:** Are you standing now? *(Laughter)*

Deputy Langlois: I think this could be treated in either way and I would be happy to accept
your decision.

3940 **The Deputy Bailiff:** If it is Members' wish that we run it in general debate, and nobody seems
to be opposing that, then we will do as we did before so people can speak to the amendment, to the
propositions or both as they see fit.

Who wishes to speak?

3945 Deputy Storey and then Deputy Adam.

Deputy Storey: Thank you, sir, and I am sorry to interrupt your train of thought.

Sir, it is, to me anyway, most unfortunate that we are being asked to consider *these* proposals on contributions separate from the benefit proposals. They should be considered together and I hope that, in future, we will revert to that situation.

3950 More than this, sir, I believe they should be considered in the overall context of the income expenditure of the States as a whole, because Social Security expenditure forms such a large part of the total expenditure of the States and it seems to me quite a nonsense to be debating contributions separately from benefits and the overall Social Security budget separately from the States budget, because the States contribute to these funds quite considerable amounts of money and it all ought to be considered, in my opinion, at the same time. So, really, we need to get our act together and do things properly and get these debated at the same time so that we are aware of all the implications of the various decisions that we take.

3955 Sir, I have to say that, taken in isolation, I have no objection to the Social Security Department's proposals on contributions. They fall well within the publicised objectives of bringing upper earnings limits for both employers and employees into balance. In fact, it really is just business as usual – as the Minister said, a holding operation – and I do not think there is anything that one can object to there. But I would like to emphasise, while we are talking about people contributing to pensions, to raise the point that I still do not think that the States is doing enough in any way to encourage people to save privately for their own pensions in this Island, because I think that to rely on the public provision of pension is quite unrealistic, going forward.

3960 I also accept the proposals embodied in the amendments and I will also be supporting the amendments because, once again, I think that we need to look at the overall picture. I share the concern expressed by T & R that the Social Insurance Fund, whilst expected to run at a deficit, that is unacceptable, and I agree that this Fund needs to be brought into balance as soon as possible. It is quite obvious, to me anyway, that the taxpayer cannot possibly be expected to subsidise pensions on an ongoing basis. Continued growth in the grant from general taxation towards pensions is unsustainable and the current level of retirement pension is, at the moment, unable to support a standard of living that most would aspire to and, really, it is only just sufficient to provide a reasonable subsistence level of income. To try to balance the books, sir, by reducing the real level of old age pensions, as far as I am concerned, is unrealistic and, moreover, it is unacceptable, but we need to look for alternatives.

3970 When first introduced in the UK, the old age pension was paid to provide an income for those who had become too frail to work. The age of 65 was chosen, firstly, because most people were unable, due to infirmity, to work after the age of 65. You have to remember that, in those days, a much higher proportion of manual labour was the form of employment for the majority of the population. Secondly, sir, life expectancy was, on average, only 68 to 70 years, so in fact, on average, the old age pension was only being paid for three to five years at the end of a person's life. Now, thankfully, we are living longer and are generally fitter and able to work longer, many well past the 65 mark. In fact, many people *dread* reaching 65 specifically because they value their daily contact with workmates and *want* to keep on working. That is why I am sorry, from a personal point of view, that there is no mention in this Report, or in SSD's October Report, on raising further the age at which retirement pension becomes payable. To me, it is quite unrealistic to expect public funds to pay retirement pensions for ever-increasing periods, as medical care allows us to live longer, healthier lives. Increasing the age of retirement would benefit many people who miss their daily contact with work colleagues when they cease to work. It would also help to balance the books because it will reduce the amount of pensions payable and, because people are working longer, it will increase the contributions paid into the Fund.

3985 I appreciate now that it is too late to change the Department's Report to be debated in October, but perhaps an amendment to facilitate this could be contemplated. I think, at the end of the day, we all realise that the current situation is untenable and, sir, I am suggesting that we need to look outside the box to find alternative ways to balance the books.

Thank you.

4000 **Deputy Bailiff:** Thank you, Deputy Storey.
The next speaker will be Deputy Adam.

Deputy Adam: Thank you, sir. In general terms, I support these proposals.

4005 The only one point that I think is worth mentioning and was not picked up by Deputy Stewart when we were discussing the Minimum Wage and that is what Deputy Bebb said about contributions – SSD contributions. I can see, on page 1907, low income people earning £125 weekly still have to provide some SSD contributions of £7.50 a week – and the employer is £8.12. Likewise, if they are earning a certain amount, tax goes up to – tax allowance – just over

£9,000. If they are earning £11,000, they have to pay tax. Maybe that is one of the areas that should be looked at because I think he made a very sensible point in relation to that.

4010 The only other point I would like to mention is something which is, for many reasons, very close to my heart, especially because of during the last Assembly, and that is this Long-term Insurance Fund and long term care. The problem about this is – and I publicly have to apologise to Deputy Le Lièvre, to a certain extent – is that we are still nowhere near getting a long term care strategy. I accept there is change from a purely long term care strategy into a supported living and ageing well strategy. Because of that, it is having to be reassessed from various aspects because 4015 what we are saying is that a young person who requires health and support because of learning disability, or some other disability, is similar to an older person who requires health and support because of ageing and we should be looking at the whole aspect of that.

4020 But, in so doing, we have to also look at the long term care funding. Unfortunately I do not believe it can stay as at present, but it has to be linked to a strategy that is presented and accepted by this Assembly. What are we going to require in five or ten years time? What are we going to require in two or three years' time? First, we are talking about more care in the community. Don't put people in boxes and institutionalise them. They have every right to have an independent lifestyle as you and I. That means we need more community type care. Help in the community is 4025 not just care people or nursing staff, it is people who will come and change your light bulb because it is not safe for you to climb up a pair of step ladders.

You don't think about these things. Making sure (*Laughter*) – sorry, sir, a Deputy has pointed out that you need scaffolding to change a light bulb in this Assembly! – so it is a case of looking at all caring aspects of an individual to make sure there is easy accessible community support. That has to be costed out and paid for. Next is to, then you can see what type of housing so that means the Housing Department has to be involved. What availability of different housing for living in 4030 more suitable for being able to age past through sixty-five, seventy-five up to eighty-five, because that is what we are talking about.

4035 Then you are looking at extra care housing and many of you may remember that debate over the housing proposals for Longue Rue and Maison Maritime to provide extra care housing, but also these extra care housing are going to have community-based centres within them so people have somewhere to socialise and meet other people of their own age. Then, after all that, we go into residential care and nursing care, which is the only option, or the most easily accessible option at the present time, because that is when you get £400 or £450 or £520 for nursing care.

4040 We have to turn this thing around so that people are supported because what they have said in the past is they want to be in the community. So, Deputy Fallaize, I agree with you, 2014 – October 2014 – is a very tight timetable to achieve what you are looking for, very tight. I accept some initial work was done by the group chaired by previous Deputy Parkinson, and I think Deputy Peter Gillson is the only Deputy who is present in this Assembly now... Oh, sorry, and 4045 Deputy Alastair Langlois who put a working part into it... and Deputy Le Lièvre, I apologise. It's just that Deputy Gillson was in my thoughts! (*Interjections*)

A Member: Actually, sir, we are all here!

4050 **The Deputy Bailiff:** Deputy Adam.

Deputy Adam: I daresay you will understand when I say there is only a very superficial aspect looked at for long term care so this is going to be a very tight budget, it is going to mean a lot of work in time to get satisfactory amounts of what is being spent at the present time in various areas, 4055 satisfactory housing with suitable new builds in community areas for the elderly and coming to terms with this.

It may also mean – and I will not be popular by saying this – it may also mean that, to a certain degree, what one *receives* to give support financially, may require to have a degree of means testing because, otherwise, the amount having to be put in is not going to be sustainable.

4060 Thank you, sir.

Deputy Bailiff: Deputy Trott caught my attention first, then Deputy Stewart, then Deputy Ogier.

4065 **Deputy Trott:** Thank you, sir.

Leading on from a theme that is developing about timings, which I shall come to in a moment, but may I, first, make the point that Deputy Storey said that the taxpayer cannot be expected to subsidise pensions in the future and it is worth reminding the Assembly that is, of course, precisely

4070 what happens nearly everywhere else. We are in an extraordinarily fortunate position here to have accumulated, over the course of the last two or three decades, a very significant reserve, the luxury of which cannot be boasted by a country such as France and the United Kingdom, for instance.

I would also take issue with the use of the 'taxpayer' as a pejorative term in the sense that since the insurance principle no longer applies to Social Security contributions, to all intents and purposes both Social Security contributions and, indeed, taxes accumulated through general revenue via the Income Tax Department are equivalent.

4075 Now, my main reason for rising as I mentioned earlier is with regard to timings. The amendment from Deputies Fallaize and Gillson does set, as Deputy Adam has reminded us, a fairly ambitious target of October 2013 and there has been much talk as to the importance of aligning debates on these matters with the State's Budget. In fact, some of the arguments are associated with the comments that I have made earlier. Would it not, therefore, to be more sensible for this amendment to have a cut off extreme of December 2013? I say that because it is quite likely that that will be the date that the debate will occur in. I draw Member's attention to page 1914, where the Treasury and Resources Department, somewhat laudably, tell us that a majority of the Members of the Treasury and Resources Department are 'disappointed' that it has not proved possible for these proposals to be debated as part of the 2013 Annual Budget in October.

4080 For reasons that have been explained to us, the Budget has since been delayed and my understanding is that the Budget debate will now take place in December, as has traditionally been the case. I suspect, sir, that that tradition will be maintained in the future for a whole variety of reasons, a lot of that associated with the summer break and the concentration of effort – the concertina effect – on effort, that happens in the early autumn. Therefore, I would ask both Deputies Fallaize and Gillson to consider a slight modification to their Amendment, substituting for October the date of December, as I think that is likely to be the outcome, sir.

4095 **Deputy Bailiff:** Deputy Stewart.

Deputy Stewart: Deputy Bailiff, it would be remiss of me as Minister of Commerce and Employment if I did not put the other side of the argument here in terms of the perspective from a Commerce point of view.

4100 First of all, I would like to thank the Minister for SSD and his Board for not increasing the percentage contribution rates. It is important that we balance contributions from industry and individuals with benefits. I was actually horrified, at my Douzaine meeting, when a comment was made along the lines of 'Put the rates up to the finance industry: they can afford it'. I recently spoke at a Guernsey Finance Annual Address and the theme was 'competitiveness'. At this time of global recession and the need to remain competitive, particularly for our finance industry – and, just for clarity, it drives 41% of our economy and GDP directly, 71% indirectly – they are now in a situation where their existing markets are more competitive and markets that they are entering, the 'BRIC' markets – just for clarity, that is Brazil, Russia, India and China – are extremely competitive, we must be careful, going forward, not to place too many additional burdens on commerce at this time. I applaud SSD for pegging these contribution rates.

4105 Of course, we must balance our books but we must be careful not to cook our golden goose.

Deputy Bailiff: Thank you very much.
Deputy Ogier, followed by Deputy Le Clerc.

4115 **Deputy Ogier:** Thank you, sir. I am going to speak on the amendment mainly.

When this Assembly rejected some of the raft of measures proposed by Social Security to ensure the longevity of the Guernsey Insurance Fund, we were informed at the time that the Fiscal and Economic Policy Steering Group would deal with the missing income for the Funds as part of phase two of the Corporate Taxation Strategy.

4120 So the original situation arose, the Social Security attempted to fix the funding problems due to be encountered by our Pension Fund as it entered into a period of great drawdown while we dealt with the pensions of the post-War boomers. The measures included a rise in contributions, longer working lives and a 0.5% rise in the employer's contribution rate, which did not find favour in this Assembly. It was originally argued, during that debate, that with such changes that were going through the Taxation Strategy already underway, that Social Security should not have the option to itself pile on more changes on top and unbalance the balance that had been found with the Strategy and that, therefore, the Fiscal and Economic Policy Steering Group would incorporate the changes required to help with the longevity of the Fund as part of its deliberations on a tax strategy.

4125 My question is, is this no longer the case? Where is the Fiscal and Economic Policy Steering

4130 Group with this? They have had it for years. We read that Social Security have consulted with them: well, what did they say? Are they no longer involved? Why, then, have we been waiting for years, only to be told now that Social Security has to fix it? Where has the Fiscal and Economic Policy Steering Group been, what have they done?

4135 They are in the Chamber today and I will be pleased to hear their thoughts before they hand this back to Social Security because, currently, I am not minded to support the amendment as I want the Fiscal and Economic Group to do what they said they would originally do and to fix this. I am not minded to wait here for years, resolve nothing and hand the issue handed back to Social Security to fix, with the hundreds of thousands, if not £millions, of deficit being caused by this delay.

4140

The Deputy Bailiff: Deputy Le Clerc to make her maiden speech.

Deputy Le Clerc: Sir – and I am standing. *(Laughter and applause)*

4145 I was expecting a much more vigorous argument from the floor, why we had not, in our Report, recommended an increase in employer contributions. I am pleased that Deputy Stewart has opened up the debate regarding our competitiveness. The Social Security Board is looking at the various options with regard to social insurance contributions and the long-term effects on the Funds, but we have to get the balance right to ensure that we remain a competitive jurisdiction for business.

4150 I agree with Deputy Gavin St Pier’s recent comments in the media, that increasing contribution rates is not something that he could currently support with the state of the economy as it is. Fortunately, we are not in recession, like many other economies, but we are now facing zero growth.

4155 I am concerned at the attitude of those who constantly demand that employers pay more. In his *Guernsey Press* column, Peter Roffey argued that contribution rates should be increased, but he completely overlooked the effect on Guernsey plc’s competitive position. Please be aware that, if we increase employer contributions, we might as well put up a sign saying, ‘We are the most expensive offshore Island’. **(A Member:** Hear, hear.) We are already close to pricing ourselves out of the market for current business and turning away potential new business. This is not the time to be putting up employment costs. We have seen, in the finance sector, our largest employer, an employment decrease of 107 during the year to June 2012. Rises in employer and employee contributions affect all wage earners, whether on low, middle, or high incomes.

4160 I have had a look at the contribution rates of Guernsey, Jersey and the UK to compare. Although our headline rates look exactly the same as Jersey, the different lower standard and upper earnings limits mean that they have very different implications in practice. For example, a Guernsey employer has to pay contributions on salaries above Jersey’s standing earnings limit of £45,344 at 4.5% more than his Jersey counterpart. Let us not forget that the States itself, the Island’s biggest employer, the 2011 accounts show total payroll costs of £220 million, including superannuation and Social Security costs. A half per cent increase in employer contributions would add approximately £1 million to our own annual, recurring revenue costs.

4170 It is just as unattractive for the employee. A high-earning Guernseyman on £100,000 suffers more than double the States insurance deductions of a Jerseyman on the same salary. It is even worse for the self-employed where, above Jersey’s standing earnings limit, the Guernseyman is already contributing over five times as much as the Jerseyman.

4175 It is relatively easy for businesses to move from one island to another and, indeed, over the past six months we have seen some consolidation of some finance businesses from one island to the other. You may be surprised to know that Guernsey office rents are one third more expensive per square foot than Jersey and in the UK it is only rents in central London that are higher.

4180 Also, it may be only anecdotal, but the perception is that it has been much easier to get housing licences for essential staff in Jersey, than Guernsey. We *have* to be competitive.

4185 I do not believe it is right to just raise the employer, employee and self-employed contribution rates. That would just be a quick win and perhaps a much-overused line in today’s debate has been ‘with serious unintended consequences’. I do believe that we must look after those less fortunate than ourselves, but one Department cannot act independently of another. Now is the time to accept these proposals and the next step is for us to have a full discussion on our longer-term social policy strategy and then work with Treasury and Resources to discuss how we can fund our decisions, going forward.

4190 Changes to adequately finance the Guernsey Insurance Fund in the long term still need to be properly investigated and formulated. That debate will be for another day. In the meantime, today’s proposals reflect the Island’s immediate needs and I commend them to the Assembly.

(Applause)

The Deputy Bailiff: Chief Minister.

4195 **The Chief Minister:** Mr Deputy Bailiff, thank you very much.

If I may just make one or two comments: reference has been made to the importance of the Fiscal and Economic Policy Group working together as part of the review of the whole issue of social insurance contributions.

4200 Can I say the Policy Council – and speaking on behalf of Policy Council – has committed to a holistic review of all aspects of tax, both direct, indirect, insurance contributions and other charges. As a preliminary step, Policy Council will be opening this debate as part of the workshop, which is being held on 10th November, as part of the initial review of the States Strategic Plan. I give that commitment to all States Members.

4205 The Policy Council is very mindful of the fact that we have to work collectively and holistically in dealing with all the social aspects and also point out to States Members that we now have the Fiscal and Economic Policy Group *and* the Social Policy Group actually working together, with common membership of both.

Thank you, sir.

4210 **The Deputy Bailiff:** Deputy Bebb.

Deputy Bebb: If I may, I am afraid that I cannot support these proposals.

4215 There are a number of things within them that relate directly to the discussion that we had in relation to the Minimum Wage. Currently we are being asked to up the upper earnings limit from 105 to 119, but I believe that the tax situation – and I am sure that the Minister will correct me if my numbers are incorrect – is £110,000 as our upper limit with regard to the tax system. Equally, I notice that, when it comes to the lower earnings, it comes to £6,500 as the annual figure whereas, of course, our tax allowance is £9,200 but the bizarre thing is that, if we earn over £6,501, we suddenly end up in a situation of having to pay the *full* amount for all £6,501. Therefore, it is slightly illusory, once again, and I do not think it is a helpful, nor indeed, a measure that we should continue with. It is time that Social Security brought in a proper allowance and did away with this measure that really does not suit most people.

4220 I find myself also struggling to find the contributions – and I will add my support to Deputy Storey’s comments – that we are being asked to look, on this occasion, on the contributions side, next month we are looking at the benefits and who knows when we will be looking at the Budget itself... The dissociation of all three sections is simply unacceptable.

We are looking for a Government that actually works in harmony. At the moment, there is nothing more evident about that dislocation of those services than simply debating all three of them at completely different points in time.

4230 Thank you.

The Deputy Bailiff: Deputy St Pier, followed by Deputy Gollop.

Deputy St Pier: Thank you, sir.

4235 I think it might be helpful to briefly explain the majority view of the T & R Board, which is in the Billet.

4240 It is simply to note, as has been said by a number of Members, that there is an operational deficit. That was the point of the comment. In a sense, this is a debate without a debate. I think we are all agreeing, we understand that the operating deficit cannot continue; something has to give, either contributions or benefits, or a combination of both. That will require time to do. Deputy Fallaize’s amendment to provide a timetable for that is one which the Social Security Department are comfortable with.

It is one that I think Treasury and Resources Department are comfortable with and one that fits in with the Chief Minister’s comments in relation to the States Strategic Plan and input into that.

4245 One of the key decisions that we have to make, as a collective group, is how big we want our Government to be. That is very much part of the debate which is starting on 10th November. It is unfortunate that we are considering these things in isolation. I fully accept the criticism from Deputy Bebb and others about how the States budget is separated – or the general revenue budget – from the Social Security budget, which is why we were trying to bring things together this year.

4250 We are committed to bringing them together next year so, hopefully, that will help explain the T & R Board’s view.

Thank you, sir.

4255 **Deputy Trott:** Sir, I would like to check something of particular relevance.
Is the Treasury and Resources Minister telling us that his Department expects to be bringing next year's Budget in October? In other words, will we be see-sawing, flip-flopping back to October from this year's December date? If that *is* the case, then clearly the comments I made earlier are of less relevance.

4260 **The Deputy Bailiff:** Minister, can you clarify that point for the benefit of Members?

Deputy St Pier: Yes, I can clarify that. That is the intention.
4265 Whilst on my feet, it did occur to me that I should perhaps clarify one comment which Deputy Bebb made, if I may. Forgive me.

The Deputy Bailiff: I will give you that latitude, yes.

Deputy St Pier: Thank you, sir.
4270 Deputy Bebb referred to £110,000 in relation to tax. Of course, that is the tax cap, that is the amount of tax, not the amount of income. So I just wish to clarify that, sir.

The Deputy Bailiff: Deputy Gollop and then Deputy Dorey.

4275 **Deputy Gollop:** Thank you, Mr Deputy Bailiff, sir.
Deputy St Pier has just mentioned how big should Government be. Of course, that is a question not just for the political and economic group, but for all of us to consider. I think it is difficult, as a starting place, to focus on those who are less fortunate paying benefits. Also, on the old age pensions – and I accept that a lot of what has been said in the media recently, has been, I think, misinterpreted – Nevertheless, the points Deputy Storey made earlier were instructive, but the point has to be made about people planning for the future more. We can create a message for the next generation – the working generation even – to do that, but it is perhaps, well, it is unfair to take it out on this generation where the context was completely different. That said, we are not really talking about pensions today, we are talking about contributions.

4280
4285 Deputy Storey made another interesting point as to why the Reports are split this year between the benefits next month and the contributions this. Well, as a member of the Social Security Board, we actually wanted a holistic report as early as possible, but we were working on the Treasury and Resources October timeline, but it was obvious, from detailed discussions with the staff, that the nature of the system of checking, of getting the IT right, of getting all the enquiries right, meant that September time was more appropriate. Therefore, if anyone is voting against it for that reason, they should not do. Next year is a different matter and I think we will all be prepared, having had a lot more time in advance.

4290
4295 Deputy Le Clerc made some key and telling points about the economic context. I feel a bit weak this afternoon, but that is because I did not have any lunch, but that is because I actually went to the Channel Islands Skill Academy lecture, being held at the Chartered Management Institute conference. It was delivered by a local trainer, Susie Andrade, who was focusing on the very issues Deputy Stewart has just mentioned about Brazil, India, China and Russia and the competitiveness and the environment and how you need to focus on your own personal competitiveness. The example that was given was the new President of *La France*, the French Republic, and, apparently, the President of Holland, introducing a 75% tax rate for high earners.

4300
4305 The point was made that the social contribution that an employer may make in France, if you take the benefits and the taxes combined – 38% – double that of Germany, which is not that low. We cannot afford to go in that direction, so the points Deputy Le Clerc made about ensuring that we maintain a competitive employment environment are paramount and that is why I personally voted against Deputy Dorey's proposals a few years ago, because although there may well be a sense in, long-term, increasing the employer contribution, doing it at the time of a credit crunch, or global recession, is not the right time. We have to stay ahead of the game and I do, in fact, completely support the proposals today.

4310 We should also look at the vision that Deputy Fallaize and Deputy Langlois have outlined where we want to go, because the history of the social insurance has been an interesting one. The social insurance idea evolved over many decades, but was heavily resisted by States Members of the time, because they believed in a *laissez faire* attitude and people preparing for their own old age. In a way, they were wrong, because history has shown the scheme has been the backbone of

4315 Guernsey's social policy but it did run a little bit askew during the Zero-10 era because, effectively, at that time the large block grant from the States was taken away and forced the Social Security Department not only to get rid of the upper earnings allowance, well certainly to move it up, as we are doing again, but also to reshape the rates and, to a degree, it has had to become more self sufficient and it is a process that is likely to continue and Deputy Storey is right to point that out.

4320 But now is the time to very much not have the old, perhaps, disagreements we saw in the last Assembly between the Social Security perspective and the Treasury and Resources perspective. We wish now to very much integrate ourselves with Treasury thinking, as long as Treasury and Resources Members maintain a strong social conscience and social policy and that there is a way, a formula, of somehow integrating – as Deputy Bebb and others have pointed out – the anomalies and the fact that our current system undeniably works the hardest against the lower earner, the employed person or self employed person who is not a particularly high earner but is not unemployed. We also, as Deputy Adam pointed out, need a comprehensive extra care strategy that embraces independence and a better independent attitude towards disabled and other people with special needs.

4330 So I endorse this and know that, although history has taken us down a strange path, we must support this interim strategy but build a better future next year.

Deputy Bailiff: Deputy Dorey.

4335 **Deputy Dorey:** Thank you, Mr Deputy Bailiff.

I would speak on the employer's contribution rate for the Guernsey Insurance Fund and link back to the amendment and I will also speak about separating the uprating report to two Reports for benefits and contributions.

4340 But, first of all, I think people need to remember what the Guernsey Insurance Fund is. It is effectively a compulsory social savings scheme. Effectively, the benefits are the same for all but the contributions vary with income. That is the definition of a 'social scheme' and it is important that people remember that if you do not have that scheme, you have to look after the old who have not got any income source. That will come out of general revenue and taxation.

4345 Unless you have this scheme and you have a buffer fund, as we have, to take us over the post-War baby boom, you are going to have considerable cost on general revenue which will fall on the taxpayer of the day. The other thing to remember is it is basically a pay-as-you-go scheme with a buffer fund, so today's contributors are paying for today's beneficiaries. The beauty is, as Deputy Trott said, we have been sensible and we have built up this buffer fund but it is only a buffer fund to take us over the worst situation in relation to increased benefits when the baby-boomers are all the pensioners.

4350 Going back to the employer's contribution, during this debate in 2007 there was an attempt by the Policy Council to change the calculation method of the grant to Guernsey Insurance Fund and the Guernsey Health Fund from general revenue. Instead, the States did not support that attempted change and they supported an SSD amendment to carry out an actual review of the sustainability of the Guernsey Insurance Fund which, of course, was the correct decision of the State. This showed that the Fund was not sustainable in its current form of that day. SSD then carried out an extensive public consultation, in which there were 2,900 people who returned the forms. It also carried out a separate consultation with employers in which 277 employers responded.

4355 The SSD Report was debated in the States in July 2009 and presented a balanced – and I stress that word *balanced* – set of proposals – an increase in the pension age, Deputy Storey, to 67, an increase in the upper earning for individuals – which is what Deputy Langlois has been speaking about – over five years and individuals are defined as employees, self employed and unemployed. Lastly, as part of the balance, an increase in employer's contributions of 0.5%. The States supported the increase in pension age and the upper earnings for individuals but did not increase the contribution rate for employers. The vote was close, 22 voting Pour and 24 voting Contre. Deputy Parkinson, as the then T & R Minister, supported the increase in employer's contribution but the two current members of SSD, Deputy Langlois and Gollop, as he has just said, who were in the previous Assembly, voted against it. It was a poor decision in 2009. It just means that more money has to be collected from the current contributions at some point in the future and the further away that point is, the more they will have to pay, otherwise you have to cut the benefits. If you cut the pension, again you put the cost back onto general revenue and Supplementary Benefit would have to pick up the cost. So there is no easy way out if you are going to ensure that the senior citizens of this Island have enough to live on.

The point that disappoints me most is paragraph 6 in the Report, where it says

4375 ‘At the request of the Policy Council’s Fiscal and Economic Group, the Department has continued to await the resolution of the second phase of Zero-10 before bringing forward any further proposals on changes to contribution rates.’

4380 That was the exact same reason that the previous Policy Council’s Fiscal Economic Group asked the Department to wait. I had hoped that the new Policy Council would have taken a fresh look at the problem. I had hoped that the new Policy Council realised that delaying the inevitable just makes the situation worse and means that you will inevitably have to have a greater increase in contributions to compensate for the delay. The short-sightedness of the decision is highlighted by the fact that, since 2009, because the decision has been delayed to increase contributions, there are 3,357 residents in Guernsey and Alderney who will have retired in the four years from 2010 to 2013, inclusive.

4385 The increased life expectancy and the high number of post-War births, the baby-boomers, are the main reasons causing the need to increase the existing contribution rates. The baby-boomers are the very group from whom we should be collecting increased employer contributions and not delaying the increase and allowing them to become pensioners without collecting some contributions at the higher rate to help fund their pensions.

4390 Also the previous Policy Council was inconsistent because when the actuarial review for the Superannuation Fund was reported in late 2008, it recommended doubling the employer’s contribution rate paid by the States at a cost of just under £7 million per annum. The increase in the rate was approved in the Budget for the year 2010, the Fiscal Economic Group were quite happy, and the States, to support the increase funded by general revenue, rather than waiting for the resolution of the second stage of Zero-10. In June this year, when we had a debate on the removal of the deemed distribution regime, the T & R Minister advised us that the Budget will include a

4400 ‘conservative extension’

– and I am quoting his words –

4405 ‘of the ten percent band and the publication alongside the Budget of a short conclusion for Guernsey’s corporate tax review.’

4410 As the conclusion of the second phase of Zero-10 is known and will be in the Budget, there is no reason whatsoever for the SSD Department not to increase the employer’s contribution rate and, equally, there is no reason for the Fiscal Economic Group to ask them to delay it once more.

4415 The amendment should not be necessary as SSD should do the review without the Assembly resolving that the Department must carry out its responsibilities but, sadly, this Report demonstrates the amendment is needed, so I urge all Members to support that SSD has to report back with proposals for the Guernsey Insurance Fund next year – and it is important, next September – so that the increases can happen in 2014. If you waited until December, you would not have enough time to do it in 2014, so you lose yet another year, and also the Long Term Care Fund, which I accept is more difficult, in 2014.

4420 Looking at the timing of the Reports, I believe that the uprating of Social Security benefits and contributions of all types is more effectively considered as an integral package in context and together with any proposal changes and background information statistics. That, to me, is the best way. The connection between benefits and contributions is illustrated by the fact that SSD have had to include the rate they propose to increase contributing benefits in October in this Report, even though it is not part of the propositions – because the limit for contributions has increased at the same rate, as Deputy Langlois has explained to us – without knowing whether the States will support that increase in contributed benefits. So we could have the contribution limits going up by one percentage but because, next month, we decided a different percentage, therefore you have missed the opportunity to keep them increasing at the same rate.

4425 The problem of timing was looked at by the Members of the previous States. T & R and SSD agreed, so two senior civil servants came to both Boards, listened to all the arguments, in writing and verbally, and reviewed them. They concluded, and the previous Social Policy Group, the Policy Council as well, T & R and SSD, they all agreed that, because of technical and legislation reasons, that contributions had to be considered in September, which is why SSD have brought them this month. They concluded – and, remember, they all agreed – that there should be a debate in the seven years of the States, setting the uprating policy for four years, so it was a clear debate which set the uprating policy for those four years and, annually, there should be any small changes

proposed in the uprating report in September, as there always is, there are tweaks and as situation change. This was a *far better* solution and, to me, illustrates that one Report per year – sorry, this debate illustrates to me why one Report per year is a far better solution because, in spite of your comments at the beginning, I have already heard people talk about benefits as well as contributions.

There are one or two other comments that I will just pick up before I conclude. The grant that is paid by the taxpayer into the Funds is not there to subsidise pensions, it is to subsidise the contributions of those on low income. That is the principle. We used to have a standard, everybody paid the rate you needed for the contributions. Now, higher taxpayers, higher earners, subsidise some of the low earners but also there is some comes from general revenue and the grant.

There has been mention of comparisons between Guernsey and Jersey but then Guernsey and Jersey are different. Jersey has GST, we don't. You can't just pick one thing and compare it. But if you look at the contribution rates in other territories and, in particular, the Isle of Man and the UK, you see that the contribution rate from employers is considerably more. It is 12.8% unlimited for employers in the Isle of Man and 13.8% in the UK, although they can get discount on that, according to whether they are paying to pension schemes. I am saying they are all different but what we have to do, and what the responsible Government must do, is to make sure you have the adequate funds to fund the pensions in the long term. If you do not, what will happen, at some point in the future, that contributions will have to increase very significantly or taxpayers will have to pay out very significant sums to fund those on low incomes, to fund old age pensioners. So the right thing to do is to increase the contribution rate now – but that is not before us – by fully supporting the amendment, as it is not there to make sure it happens next year.

Thank you.

Deputy Bailiff: Is there anyone else wishing to speak on the amendment or in this debate? So we will take Deputy Lester Queripel and then Deputy Lièvre.

Deputy Lester Queripel: Thank you, sir.

I took the advice of several well-meaning colleagues and I spent the whole of my lunch break amending this speech, sir: it was 18 pages, sir, (*Laughter*) but now it is only eight!

A Member: Thank the Lord!

Deputy Lester Queripel: Sir, I did actually consider bringing an amendment to the Assembly to increase the high earners' contributions even further. My logical brain told me (*Laughter*) if we made more money from high earners we could ringfence that money and pass it on to pensioners who are either on or below the poverty line. I had several meetings with Deputy Langlois' excellent staff at SSD, I also had a one-and-a-half-hour meeting with Deputy Le Lièvre, and the message I got echoed the phrase I hear time and time again, and that phrase is, 'It isn't that simple, Lester.'

Deputy Le Lièvre was extremely helpful and he went into great detail and I thank him for that because, as a new guy on the block, sir, I need as much guidance and advice from the established Deputies as I can get. (**A Member:** Hear, hear.) Deputy Le Lièvre pointed out to me that to bring the sort of amendment to the Chamber that I was thinking of would take weeks, if not months, of research, because I was actually looking at three separate issues: the first issue being that I would have to have a pretty convincing case for proposing a further increase in contributions paid by high earners; the second issue was the issue of ringfencing the money; and the third issue was to pass on the money to those pensioners either on or below the poverty line.

That is where it started to get complicated, sir, so I decided not to continue with the amendment. But, in reality, the way I see it is the current system is not only unfair but it is also unsustainable. Who says the wealthy people of the Island do not want to contribute more to welfare? If I were a rich man, sir... and I will refrain from bursting into the song from Topol from the 1960s, (*Laughter*) but if I were a rich man, sir, I would gladly pay more. (*Interjection and laughter*)

A Member: You would need to be a fiddler on the roof.

Deputy Lester Queripel: Sir, I stand on a platform for fairness, justice and equality, and I see the duty of any government as being to ensure the wellbeing of the people.

I will support these recommendations, but I still need someone to tell me why we are not asking the wealthy members of our community to contribute more.

Thank you, sir.

4500 **A Member:** Well done.

The Deputy Bailiff: Deputy Le Lièvre next.

4505 **Deputy Le Lièvre:** Mr Deputy Bailiff, Members of the Assembly, in conversation with Deputy Fallaize over the last couple of days, and certainly over lunch, he used the phrase that ‘We like to look at everything before we do anything and we end up doing nothing’. That message has come out during the Minimum Wage debate and has been mentioned several times during this debate, insofar as we all want to look at the *whole* social picture, the whole welfare picture, the whole benefits and tax structure before we make a move in any direction. I think I am actually in favour of that. I am actually in favour of that.

4510 In June 2000, I suggested such a move to the then States Treasurer when I was taken on board to review the States Rent Rebate Scheme. I said, ‘This is nonsense, we should look at tax, we should look at Supplementary Benefit, we should look at even the educational grants system and we should look at rent rebate and there should be a golden thread which runs through all of them.’ I was told to push off – not so impolitely but, certainly, I was told it was too complicated, it would take too long, ‘Go away,’ – and these are the correct words – ‘Go away and tart up the Rent Rebate Scheme,’ which I did, and it works well. (*Laughter*) For a tart, yes! (*Laughter*)

4515 Deputy Hunter Adam has very clearly referred to the various strategies that have existed for the elderly. This is to do, if you like, with Deputy Fallaize’s amendment. He has referred to the strategies in the older people’s... It started off as the Older People’s Strategy, I think, sir, but then it has had several names, which I cannot remember, and it changes constantly. I do not need to be reminded, because I will only forget, but the important thing is that strategy moves on and it does not wait for the big picture.

4520 I love history and I go back to the days of the Board of Health, when it presented charges to... I do not know if it came to the States but, certainly, its intention was to introduce charges for King Edward VII, Duchess of Kent and, indeed, for the various wards in the PEH, long-stay wards, and the charges were horrendous. They would have bankrupted anybody in a matter of a few years. Deputy Walters brought a Requête to the States which charged Social Security, I think – it might have been A & F as well, I am not sure, but certainly Social Security – with the job of actually looking at a system of relief from long-term care charges, and that started in 1983. There was a mid-term Report in 1995, where Social Security suggested a test of means which took into account the value of a person’s property which, needless to say, foundered without trace, and it was not until 2002, some 19 years later, that the Long-term Care Scheme came into being, and it has proved to be an incredibly successful Scheme which has removed the worry for many elderly people and their dependants about how they were going to pay the high level of charges for their care.

4530 That is set to change. It was set to change after Housing’s proposals with regard to Maison Maritaine and Longue Rue, it is set to change because of the Health 2020 Vision, and it is set to change because the Long-Term Care Fund is probably, in its present format, unsustainable. That is not a word I like, but it is probably true.

4540 It took 19 years from the Requête to the actual start of the Scheme. On top of that, that long conception, we have now changing policies in relation to the care of the elderly, and my warning to Social Security – and it is a warning and it is meant... I would love them to be able to report back in 24 months – is, with the desire of the States to turn over every stone on the beach to see what was underneath it, and the need to balance the books, and the need to introduce new strategies, has to all be tied in with the review of the payment of a care scheme which we are now going to seek a Social Security Report on in 24 months’ time. I think that is probably too much of a tall order. I would not be at all surprised if Social Security came back and said, in 12 months’ time, ‘In discussion with HSSD, we just cannot do it; the timetable is too tight.’ Indeed, it took even the small working party that I was on and all the other people in this House were on – which Deputy Hunter Adam seems to have forgotten, but we were all on it together – to come to the conclusion which I think many of you will find acceptable – unacceptable, rather (*Interjections*) – and that was to turn the clock back to a Report brought to the States by Social Security in 2002, where the family home would be partially, or wholly, taken into account as a resource. If Social Security are going to review the sustainability of the Fund and introduce taking the family home into account as a resource, it is not going to be two years, it is not going to be 10 years; it will be the equivalent date from 1983 to 2002.

4555 So, good luck to you, I wish you well. I am just glad I am not on Social Security. (*Laughter*)

Thank you, sir.

4560 **The Deputy Bailiff:** Deputy Green attracted my attention next.

Deputy Green: Mr Deputy Bailiff, Members of the States, speaking as a member of the Board of Social Security, we are acutely aware that we must grasp the nettle on the long-term sustainability of the Insurance Fund and the Long-Term Care Plan as soon as possible. In view of the now well-known demographic projections, the *status quo* is no longer an option.

4565 However, we have to say that it would have been quite wrong for the Board to have rushed to a judgement on how to tackle the Guernsey Insurance Fund's deficit and the question of how to put that Fund on a secure long-term platform in the space of the few weeks that we had between being first elected and the deadline for submitting the Report for today's meeting. We were not going to draft dramatic or radical solutions to this problem in the relatively short period of time that we had available to us. We thought it much better to use the time that we had, with mature reflection, to come up with the right answer, rather than a quick solution.

4570 Members will know that the maths of the situation are straightforward and clear: a longer-term balance can be secured only by a combination of putting up contributions, cutting spending on benefits or increasing the grant from general revenue to the Funds. With these potential options in mind, I would like to emphasise that this Social Security Board is absolutely determined to protect the interests of the most vulnerable and disadvantaged in our society, both now and in the future. We will not countenance any approach to contributions which will adversely affect our old age pensioners and others who rely on contribution-related benefits to get by.

4575 We are very mindful of the fact that some people, including many pensioners in our local community, are living in relative poverty and we are committed to protecting them in a way that befits any civilised society. The Social Security Board is committed to examining all facets of the Social Security system this term with a view to establishing greater fairness and social justice. Therefore, not only will we look to put the Guernsey Insurance Fund and the Long-Term Care Fund on a sustainable and stable basis, we will be looking at adopting a new strategy in respect of benefits funded from general revenue, but clearly that is a matter for another day.

4580 I therefore urge all Members to support the proposition set out on pages 1911 and 1912 of the Billet, safe in the knowledge that this Department will be grasping the nettle on the Funds as soon as we reasonably can do. I also support the amendments as a sensible way forward.

4585 **The Deputy Bailiff:** Thank you.
Is there anyone else wishing to speak at this stage?
Yes, Deputy Laurie Queripel.

4590 **Deputy Laurie Queripel:** Thank you, sir.

I rise to support the amendment, sir, but I will make a couple of general comments.

4595 I am going to support the amendment because we have to arrive at a sustainable model sooner rather than later. This SSD reminds us on more than one occasion that the model as it stands is not sustainable in the long term. So I think the sooner a remedy is administered the less painful it will be. If this amendment serves to quicken that process then so much the better, but I would say, sir, when SSD do carry out their view, in line, hopefully, with this amendment, I want to appeal to them not to see decreasing pension benefits as an easy way to sustain the Fund.

4600 I just want to make a couple of comments on the speech that Deputy Le Clerc made. I was very impressed with that speech, but as Deputy Dorey said, we do have some wiggle room. Jersey have a GST, which I think is now at 5% and, of course, they also have an extended-10 aspect of their Zero-10 and their Corporate Tax Strategy, so I think we do have some wiggle room.

4605 Also, a couple of comments that Deputy Storey made: he was saying that people should be encouraged to make provision for themselves and not rely on the state old age pension. I would make this comment, that people at the moment are in a real pincer position and their salaries have been frozen for a number of years now. The cost of living is going up, the cost of food, the cost of fuel, the cost of energy, the cost of electricity, so there is not very much disposable income for them to do that. I think it would be far less painful if people have, say, half a per cent added to their contribution rates, than it would be to try and make provision for their old age pension.

4610 So I would ask Members to support this amendment and let us get on with this review.
4615 Thank you, sir.

The Deputy Bailiff: As I see no-one else rising at this stage, Minister, it is your opportunity to reply on the amendment, and the amendment only at this stage.

4620 Oh, Deputy James, I do apologise.

Deputy James: Thank you, sir.

It was suggested to me that probably during this debate there would be those Members of the Assembly who would be shouting that SSD was, in fact, too mean, and the other half would shouting that we are far too generous. I have to be honest, sir, I am very pleased with the way the debate has actually gone today.

4625 I think, as the only Member of the Board not to have spoken, I really would just like to reassure the Assembly that the Board are absolutely united in working with T & R and the Policy Council, with a view to achieving a strategic financial position in order to maintain a sustainable welfare and benefits system.

4630 Basically, sir, that is all I would like to say.
Thank you very much.

The Deputy Bailiff: Thank you very much.

4635 Before I jump the gun again, is there anyone else, a final opportunity?

So, Deputy Langlois, do you wish to exercise any right to reply on the amendment only?

Deputy Langlois: No, sir, I think we should move on. I am quite happy to accept the amendment, as I said before.

4640 **The Deputy Bailiff:** Deputy Fallaize, it is your opportunity to reply to the debate on the amendment, such as it has been.

Deputy Fallaize: Thank you, sir, and to speak generally, I suppose.

4645 **The Deputy Bailiff:** Yes, if you wish. (*Laughter and interjections*)

Deputy Fallaize: Well, since you sound so enthusiastic, sir, (*Laughter*) maybe just one or two comments!

4650 Deputy James: I chuckled when she said she was pleased that the debate was very civil and Members were not too critical of the Social Security Department, but I would say to the Members of Social Security, you are not out of the woods just yet because next month I think may be a slightly different matter.

4655 Deputy Lester Queripel said, 'Why don't we just require higher earners to pay more?' Now, with respect, I would say to Deputy Queripel, often politics is the art of the possible. I had the devil's own job trying to get the States to raise the upper earnings limit from the ridiculously low level that it had been set at in 2006. Twice I tried and failed, the first time spectacularly, the second time narrowly with an amendment. In the end, the Social Security Department accepted that the arguments were reasonable and themselves proposed an increase in the upper earnings limit.

4660 We are now, as Deputy Allister Langlois said, in the fourth year, or about to enter the fourth year of a five-year phase-in of increasing the rate. I do not think that we are going to get the rate increased, certainly not substantially, during the life of this Assembly, and the solution that Social Security come back with in terms of sustaining the Guernsey Insurance Fund and the Long-term Care Insurance Fund is bound to be a mix of measures.

4665 Deputy Adam appeared to me to express reservations about the whole content of the Long-term Care Insurance Fund, and when Deputy Le Lièvre was extolling its virtues, he was shaking his head.

I think it is important to understand the Long-term Care Insurance Fund has done what it said it would do on the tin: it *has worked*. It has provided assurance and security for the elderly population. It has replaced a completely flawed means-tested scheme, which ended up with people divesting their houses for £1, in some cases, to family members just a few years before they entered care. That was an inequitable and unfair scheme. The Long-term Care Insurance Fund replaced that and when the Social Insurance Authority came to the States with a proposal to begin the scheme, they did make it clear that, after about 15 years, there would need to be a review of the contribution rates and the benefits paid out of the Fund – effectively, it would hold for a period of about 15 years. Well, 2014, the date in my amendment, is 13 years after that Report. So I think the Long-term Care Insurance Fund can be judged to have been a success and I am confident that it will continue to be a success.

I did say to Deputy Le Lièvre, and I would say to the States, there is a danger if we try to do

4680 *everything* before we do anything, that we will end up doing nothing. It is sometimes too easy not
to take action on the grounds that we cannot see the big picture; but very, very rarely in
Government can you see the whole picture so clearly at one point in time that you can then put
everything in place. Sometimes you just have to take decisions and they will create... all decisions
4685 the States take create anomalies, which at a later date, have to be resolved. If that were not the
case, then we could just have one term of Government and everything would run swimmingly
thereafter, but that is not real life.

In respect of the amendment, there were two objections raised by Members, serious objections:
Deputy Trott on the question of the date in the amendment, but I think that has been dealt with by
the Treasury Minister. If the Treasury... I think everyone accepts that where we are now is a bit of
4690 a mess. The Contributions Report being considered in September, benefits being considered in
October and the Budget having to be delayed to December, that is a mess. There may be good
reasons for it, but it is a mess.

Clearly, the best option is for the Budget and the benefits and contributions to be considered at
exactly the same time. The Treasury Minister is indicating that the Budget will be debated in the
4695 autumn, after this year, therefore I think the dates that I have outlined in my amendment are
reasonable. As Deputy Dorey said, if the dates in the amendment are moved to December, that
means that you effectively lose an extra year of potentially increasing contribution rates or
decreasing benefit rates in terms of sustaining the Fund. So I am not minded to change October to
December.

4700 Deputy Ogier was concerned not so much about the direction in the amendment or the date, or
that the work needs to be done, but apparently about who needs to do it. He may have different
information. I do not think the Policy Council has ever argued that the Social Security Funds –
their sustainability – would be dealt with at the same time as stage two of the Fiscal and Economic
Review... dealt with as part of stage two of Zero-10. I think the argument that the Policy Council
4705 put – and I am not saying it was valid or otherwise – was that sustaining Social Security’s Funds
should be done... those decisions should be taken only once stage two of Zero-10 has been
brought to a conclusion. My understanding was always that it would remain the responsibility of
the Social Security Department and I do not see how else... I mean, I could have directed the
Policy Council in this amendment, but I might just as well have directed Culture and Leisure, quite
4710 frankly, because... (*Laughter*) In that, I am not being critical of Culture and Leisure, but the Social
Security Department’s mandate says it is:

‘To advise the States on matters relating to:
The provision of social security coverage, through social insurance, health insurance, long-term care insurance.’

4715

and goes on to say:

‘To exercise the powers and duties conferred on it by extant legislation and in particular:
to control and manage the Guernsey Insurance Fund... and to control and manage the Long-term Care Insurance
Fund.’

4720

So it is quite clear that this Assembly has determined that the Social Security Department will
be responsible for those two Funds, and therefore it seems very obvious to me that if the States is
going to direct anybody to report to the States with proposals to ensure the sustainability of these
4725 Funds, then it will have to be the Social Security Department.

Deputy Ogier: Sir –

The Deputy Bailiff: Deputy Ogier.

4730

Deputy Ogier: – at the time of the debate when this, or when the previous Assembly did *not*
pass the recommendations from Social Security on ensuring the longevity of the Social Security
Fund, the Fiscal and Economic Policy Steering Group were tasked, in consultation with Social
Security, to come forward with recommendations as part of the phase two of the Strategic
4735 Taxation Strategy in order to fix the longevity of the Fund.

So it is the Fiscal and Economic Group in consultation with Social Security, and that is what
Social Security has been waiting three years to find out.

The Deputy Bailiff: Deputy Fallaize.

4740

Deputy Fallaize: With respect, sir, I think that is just plain wrong.

4745 There is no extant States resolution which directs the Policy Council to do anything in respect of Social Security's Funds. Social Security: their Report was rejected and *some* members of the Policy Council said that the decisions on Social Security Funds should not be made until the Policy Council has resolved stage two of Zero-10; but there is no States resolution directing the Policy Council or the Fiscal and Economic Group – or whatever it is called this month – to do anything. The responsibility rests with the Social Security Department.

4750 Now, of course, the Social Security Department, particularly in respect of the Long-term Care Insurance Fund, but also in respect of the Guernsey Insurance Fund, will have to work with the Policy Council and with T & R and HSSD, and probably now with Housing, in respect of the Long-term Care Insurance Fund, but we have to ensure that lines of accountability are as clear as possible. The Social Security Department *is* the Department that is responsible for managing the Guernsey Insurance Fund and the Long-term Care Insurance Fund and they should be the Department, the Board, charged with reporting back. So I think that answers the questions that were raised in debate on the amendment.

4755 Once again, I thank the Department for not opposing this amendment and I look forward, if the amendment is approved, to the Reports they come back with in 12 and 24 months respectively.

Thank you, sir.

4760 **The Deputy Bailiff:** Deputy Fallaize, are you keen to have separate votes on proposition 1, to insert a new proposition 10, and proposition 2, to insert a new proposition 11, on the amendment, or could we take them together?

Deputy Fallaize: No, sir.

4765 I only laid the amendment out like that in case somebody else wanted to take them separately, but I, personally, would rather they be taken together.

Deputy Ogier: I would like 10 to be taken separately, please, sir.

4770 **The Deputy Bailiff:** In that case, we will take the two separately.

So, moving to the vote on the amendment.

The first proposition in the amendment is to insert a new proposition 10.

All those in favour; all those against.

4775 *Members voted Pour.*

The Deputy Bailiff: I declare that carried.

4780 The second proposition in the amendment is to insert a new proposition 11, this time relating to the Long-term Care Insurance Fund.

All those in favour; all those against.

Members voted Pour.

The Deputy Bailiff: I declare that one carried, as well.

4785 So we now have amended propositions.

Procedural

4790

The Deputy Bailiff: It is 5.27 p.m. The Minister has indicated that he can, potentially, reply to the debate within, he is saying, a quarter of an hour, but if we persuade him it might be 10 minutes... *(Laughter)*

4795 I will put a proposition to you that we should continue to sit to conclude this item of business. So those in favour of continuing; those against.

Members voted Pour.

4800 **The Deputy Bailiff:** In that case, we will continue.

Contribution rates for 2013

Approved

4805

The Deputy Bailiff: Minister to reply to the debate.

Deputy Langlois: Thank you, sir, he says quickly.

4810 Thank you for supporting the amendment and reaching agreement on that. I will come back to some of Deputy Fallaize's comments later.

4815 Deputy Storey starts off with some very understandable concerns and objections that very much fits his financial view of the world and his need to balance everything. Much of what he said, our Board agrees with. Right? We were *not* willing to make snap decisions – we have said that before – and the whole business of the timing is all related to the speed with which we can get contributions rates and so on in place, the service we offer to self-employed and unemployed people and so on. So there are technical reasons.

4820 We have noted Deputy Storey's comments in every sort of way. I just had *one* concern about what he said and that is that he used the phrase... because very often speeches in this Assembly can lead to a sound bite being extracted by certain people in a particular profession and that is that the sound bite – if it comes out as 'balancing the books by reducing the real level of pensions', please let us wrap around that where we are actually proposing to go, and that is *no* part of our proposals.

4825 The rise to the pension age of 67 has already been agreed, July 2009 spread over 2020-2031. Do I think it will come back before then, potentially, to either extend it or change the speed of it, I think there are certain signs that that could be the case, but that, again, is not some immediate revelation of a plan that we have got, it is just an observation of the increasing pressure on demographics and the like.

4830 Deputy Adam referred to the lower earnings limit and then we got very involved in the whole question of earlier comments by Deputy Bebb about the step function at the lower level. I do not think we should get too carried away with this, because actually at the level at which that occurs, around the £6,000 mark, we have very few, if any, people earning around that money. It is mainly people who take on some part-time work, so I do take the point that co-ordination is part of this master plan that has been outlined, but is not in itself a major issue that should be prioritised.

4835 Deputy Trott made the apparently uncontroversial statement that the insurance principle no longer applies. I am not counting the chickens on that one, because I think, as somebody else said later, we are not out of the woods yet and the debate about whether the insurance principle is at the centre of this, or not at the centre of this, is a critical part of that longer-term sustainability.

4840 Thank you to everybody who spoke in support. I will not pick people out separately. The debate then moved on to various aspects of the Policy Council role, the FEPG role and our role. I first of all accept fully that in the way the mandate stands and the way all the resolutions are constructed, this is the Social Security Board's responsibility. All of our plans rely on co-operation with, and support from, the Policy Council and FEPG. If somebody regards that as a rather naïve political standpoint, then they are entitled to do so. We believe we can achieve that.

4845 I thank Deputy Le Clerc for her support and would like also to congratulate her on that excellently delivered maiden speech and I thank the Chief Minister for his commitment to this co-operative year that we are looking for. As always, a good history lesson from Deputy Gollop keeps you going and he can wind that clock back longer than most of us and tell us the way these things have developed. That is why he is going to be such a valuable asset on the Board, as we move on through this rather longer-term operation.

4850 I thank Deputy Dorey for his reminder that – very precise wording as always, as you would expect – that the Guernsey Insurance Fund is a 'compulsory social savings scheme'. I was really delighted that he then moved on to say, 'Remember this is a buffer Fund', because, very often, having involvement in a major way with the Occupational Pension Fund, as well, and the pain of that and whether it is fully funded and so on, very often people get terribly carried away with the idea that the word 'sustainable' is equivalent to saying that we will build a Fund that will last forever. Funnily enough, I have not found one of those. If you find one in the private sector, could you please pass on the name of it to me, because I think I could make use of it! It *is* a buffer Fund and it is the variation and the size of that buffer Fund and the speed with which it dribbles out, or is filled up, which matters.

4860 There is *no* proposal at all to finance this from reduced pensions. Right? Once again, careful, because a sound bite could appear that might give that impression.

I thank Deputy Le Lièvre for his timely warning. The only thing I would say is that my interpretation of the amendment – and I flag it up now – is that it says 'report back', and that is

4865 exactly what it is. Yes, of course, all the words are in there about ‘sustainable’, but this is all within the realms of States practicality and, certainly, if, at any given point, it would appear to us that, jointly with these other parties involved, we are going to be pressed on those timescales, it will be incumbent on us to come back to you *very early* and not to try and con something through.

I think that has covered most of the points. I would be very happy to talk to Deputy Lester Queripel at some point. I think he is the only person I could think of here – and apologies if it sounds rude – but is that he is slightly barking up the wrong tree on this one, because the whole business about the upper earnings limit, you have got to remember two things about this particular group of people. You are talking – it is in the Report – there are just 1.5% who are above that particular earnings limit so, in round figures, if you work that out, that is about 450 people and the additional amount you would draw from 450 people, especially since you are talking about an income level, and generally speaking a number of people in that 450 will arrange their finances in a different way that it will not be being drawn as a regular income, it will be investments and so on, some of which will be applied to contributions to a mortgage and all sorts of complications. You are talking about a very small group of people. What you do not have in this inequality debate is that you do not have 450 people who, magically, can support a vast proportion of the people at the other end of the pay scale in a big way. So, I think that the amount of money that would be produced by extending that further – and I would remind you that on the new upper-earnings limit, somebody who is self employed, is already at that upper earnings limit, contributing £12,500 a year to the Fund towards their own pension, but a substantial contribution towards other people’s. So we can do a bit more detail about that, but now is not the time or place.

4885 The debate has centred around timing. We wish it could all have come together as well. I did not mind anybody saying that, because maybe I should have said it more strongly in my introduction. We are where we are; we are doing it this way; that is the way the world is. In terms of joint working, I can assure you that it is happening and it is early days, because there has been a lot happening round and about. There are some other parties involved and we are certainly moving that joint working forward. Above all, we, as a Board, are conscious that, during this process of readjustment and fine tuning, which may be radical tuning at some point, our job is the protection of the vulnerable, here and now. What I do not want is to set panics going amongst the current pensioners and beneficiaries of our benefit schemes, that this is a prelude to some major cutting exercise.

4895 Thank you and please support the Report.

The Deputy Bailiff: Thank you, Minister.

4900 Members of the States, there are nine propositions published at pages 1914 and 1915 in the Billet, to which you have now added propositions 10 and 11 with the amendment moved by Deputy Fallaize and Deputy Gillson. Is there any request that I take any of those separately? The way the debate has gone, I treat them rather as a package that could be put collectively. No?

In that case I am going to put all 11 propositions to you.

Those in favour; and those against.

4905 *Members voted Pour*

The Deputy Bailiff: I declare those unanimously carried.

Members of the States, we will adjourn now.

4910 Thank you for today. We will resume at 9.30 in the morning for a clean start with the States Review Committee.

The Assembly adjourned at 5.40 p.m.